TAXING MATTERS:

An Assessment of the Practice of Property Taxation in Ontario

A Report to the Honourable Robert Nixon,
Minister Of Revenue
and Treasurer Of Ontario

October, 1985

Ontario
Ministry
of
Revenue

4th Floor, Hearst Block
Queen's Park
Toronto, Ontario
M7A 1X7

October 31, 1985

Honourable Robert Nixon
Minister of Revenue
and Treasurer of Ontario
Hearst Block
Queen's Park
Toronto, Ontario
M7A 1X7

Dear Mr. Nixon:

Attached for your consideration is a report on the practice of property assessment and taxation in Ontario.

Entitled **Taxing Matters: An Assessment of the Practice of Property Taxation in Ontario**, the report contains fifty-three recommendations for your attention and that of the Government.

The original terms of reference for this study focussed on the questions of the assessment of improvements to residential property, the appropriate assignment of an increased level of responsibility to municipalities, and a review of progress in the advancement of reassessment programs.

I am fully satisfied that the recommendations in this regard are worthy of your consideration.

During the course of review, a range of further concerns having implications for both policy and administrative practice were brought to my attention.

I am pleased to advise that resolution of these additional matters has also been recommended to you.

.../2

I am indebted to Mr. David Goyette for his contribution to all aspects of this report. Mr. Goyette's review and analysis of this highly complex area of government involvement is to be highly commended.

Respectfully submitted,

Herb Epp

Herb Epp,
Parliamentary Assistant
to the Treasurer and the
Minister of Revenue

October 31, 1985

Mr. Herb Epp
Parliamentary Assistant to the
Minister of Revenue
Hearst Block
Queen's Park
Toronto, Ontario
M7A 1X7

Dear Mr. Epp:

I am pleased to hereby submit the results of my review of a variety of issues concerning the practice of property assessment and taxation in Ontario.

During the course of this review, consultations with interested and affected parties were undertaken in Toronto and in locations across Ontario. These parties are listed in Section 9, and I am indebted to them for the contribution of their insight and expertise.

I am similarly indebted to the staff of the Ontario Ministry of Revenue for their continuing assistance.

As requested, the review has focussed on a number of issues of pressing concern to the Government, municipalities and property taxpayers of Ontario.

The recommendations herein are submitted in the hope that they will contribute to the ongoing evolution of a system of taxation which is just and equitable for all of Ontario's citizens.

Respectfully submitted,

David Goyette

TABLE OF CONTENTS

Letters of Transmittal

1. Introduction 1

2. Executive Summary 4

3. The Practice of Assessment: 13

(a) The Assessment Review Board 13

(i) evening meetings 13

(ii) written reasons for decisions 14

(iii) fees for appellants 16

(b) The Annual Re-activation of Appeals 18

(c) The Annual Notice of Assessment 21

(d) The Burden of Proof 24

(e) The Performance of Assessors 29

(f) Third Parties and Tax Agents 33

(g) The Payment of Tax Bills 41

(h) Affirmative Action 42

4. Ministry Program Review 43

(a) The 1985 Freezing of Assessments 43

(b) Condominiums/Co-operatives 46

(c) The Disabled and Seniors in the Community Program 63 66

(d) Environmental Hazards 69

(e) Day Care Centres

(f) The Placement of the Assessment Function 71

5. The Standard of Public Information 81

(a) Distribution of Government Material 81

(b) Multi-lingual services 84

(c) Community Advisory Services 87

(d) The Notice of Assessment 90

(e) Appellant Access to Information at the A.R.B. 93

(f) Regional Assessment Commissioners 99

6. The Treatment of Residential Improvements 101

(a) Good Maintenance and Repair 101

(b) Options for Relief from Increased Taxation: 110

(i) the gross floor area model 112

(ii) the date of sale model 113

(iii) the listing of improvements model 113

(iv) the local taxation model 114

(v) the structural model 115

(vi) the local exemption model 116

(c) The O.M.B. Decision - 48 Russell Street, Toronto 122

(i) maintenance and repair 123

(ii) cumulative improvements 124

(iii) calculating the value of improvements 126

(iv) the retroactive effects 134

7. Ontario Reassessment Programs 136

(a) Overview 136

(b) Municipal Reassessment Options 141

(c) Mandatory General Reassessments 149

(d) Regional and County Reassessments 151

(e) Metropolitan Toronto 154

8. Summary of Recommendations 160

9. Consultations 182

1. Introduction

In August 1985, the Minister of Revenue initiated a review of the practice of assessment and property taxation in Ontario.

The review, headed by Mr. Herb Epp, MPP, was directed at three areas of concern:

* the assessment and taxation of improvements to property, and residential property in particular;

* the appropriate assignment to municipalities of an increased level of responsibility in matters related to assessment and taxation; and

* a review of the progress of the implementation of reassessment programs.

During the course of review, a wide variety of related issues were also considered, and many of these have been the subject of analysis and recommendation.

A process for consultation with groups and individuals affected by and interested in assessment and property tax

matters has been undertaken. In all, over sixty such parties have been consulted.

This consultation process affirmed that there exists a level of dissatisfaction with the taxation of property in Ontario that now requires remedy. While the range of concerns expressed is wide, there appears to be a high level of agreement that the practice of assessment and taxation must, as closely as possible, adhere to some basic tenets for reform:

* assessment practice must proceed to an end-state where similar properties are consistently assessed in a similar manner;

* the property taxpayer should be provided with an improved level of understanding as to the purposes and functioning of the tax;

* there should be a higher degree of predictability afforded to taxpayers in the determination of their property assessment and taxation;

* there should be an improved level of assistance and information provided to taxpayers who undertake to appeal their property assessment;

* an improved balance should be found between the taxation of property improvements on one hand, and relief from such taxation in the interest of the good maintenance of property on the other;

* greater clarity should accompany the intentions of the Ontario Government in relation to the promotion of reassessment programs for Ontario municipalities.

The recommendations herein have been tailored to the advancement of these tenets.

While it is evident that wider and more extensive investigations into property assessment and taxation are necessary in order to bring maximum benefit to all of Ontario's citizens, we are satisfied that the results of this current review can assist in bringing us closer to that goal.

2. Executive Summary

The major proposals contained in this report are outlined below.

Assessment Practice

It has been concluded that administrative practice at both the Ministry of Revenue and the Assessment Review Board can and should be improved in order to provide a higher level of assistance and service to property taxpayers.

Specifically:

- The Assessment Review Board should hold evening meetings and routinely provide written reasons for its decisions.

- Ministry assessors should be provided with clear guidelines having the effect of banning "windshield assessments", and prohibiting the discouragement of appeals. Improved training should be provided to assessors relocated to undertake time-specific assessment work.

- The requirement for the annual re-instatement of a properly filed assessment appeal should be eliminated.

- The Notice of Assessment should be returned to its former status as an annual statement to all owners and tenants, at an

increased cost of $2.01 million.

- Property taxpayers appealing their assessments should henceforth be considered "innocent until proven guilty". No increase in assessment or taxation should take effect until the assessment appeal process is completed. Provisions for the payment of taxes ultimately due should have retroactive effect to the date of appeal.

- No appeal by an individual, tax agent or condominium corporation of another owner's assessment should be permitted without the prior consent of that owner, unless undertaken by a government or school board; tenants should receive prior notice from an owner of his/her decision to appeal the assessment of the subject property.

- The period for the payment of property taxes should be extended from 14 to 21 days.

- Affirmative action should be undertaken to increase the representation of women on the Assessment Review Board beyond their current 4.6%.

Program Review

Review of specific Ministry program initiatives has been undertaken, and the key recommendations are as follows:

- The "freezing" of the assessment rolls should be continued in 1985 and reconsidered on an annual basis.

- A "freeze" on the assessed values of condominiums and co-operatives should be re-instated.

- The Disabled and Seniors in the Community Program should be expanded to apply to group homes housing up to ten persons exclusive of staff, rather than the current limitation of three residential units. The re-advertisement of this Program should be undertaken.

- Policy should be developed for assessment and taxation relief for properties devalued by reason of a range of environmental hazards. A procedure is proposed to secure recourse from the party responsible for the hazard, in order that municipalities not be unfairly penalized by a loss of revenue.

- An exemption from assessment and taxation for non-profit child care centres occupying school or other tax-exempt property should be legislated. A review of the tax treatment of all non-profit, community-based organizations should be undertaken in 1986.

- The devolution of the assessment function from the Province to its municipalities should be considered only when reassessment programs are in place in all Ontario municipalities. Support in principle for the setting of variable mill rates by municipalities should be accompanied by an in-depth investigation in 1986.

Public Access to Information

It has been concluded that the public should benefit from improvements to the availability and dissemination of public information.

Specifically:

- The Assessment Program Policy Manual should have wider distribution and advertisement.

- All market value impact studies undertaken by the Ministry of Revenue should be routinely, promptly and publicly released.

- French language service should be available in all Ministry of Revenue Regional Offices serving a francophone community.

- All Notices of Assessment should be produced in both of Canada's official languages.

- Special multi-lingual inserts advising of language service, key dates and appeal procedures should accompany the annual Notice of Assessment. These should be undertaken first in Metropolitan Toronto, and reviewed within one year for wider application.

- Interpretation services should be provided at the Assessment Review Board.

- The annual Notice of Assessment should be redesigned in order to simplify its meaning and clarify its significance.

- Appellants at the Assessment Review Board should be entitled to the timely receipt of specific data relating to comparable properties to be used by an assessor at a Board hearing.

- All Regional Assessment Commissioners should be required to submit a public annual report on their activities to municipal Councils within their jurisdiction.

Residential Improvements

It has been concluded that a greater degree of clarity should be afforded assessment practice in relation to the simple repair and maintenance of residential property. Assessment practice should also be altered to provide for locally-determined incentives to property improvement.

Specifically:

- Residential improvements should be exempt from an increase in assessed value where such improvements are decorative or cosmetic; involve the replacement of plumbing, heating or

electrical service; or facilitate the decorative restoration of heritage lands and buildings.

- The current $5,000 market value exemption limit below which improvements are not reassessed should be eliminated in favour of an annual, municipally-determined limit. This exemption should continue to apply to all property classes and may vary according to class.

  This exemption should be cumulatively calculated and be made to apply newly to successive owners.

- Legislation should be introduced to permit the cumulative calculation of improvements to a property, regardless of the timing of their discovery by an assessor.

- Leave to appeal from the June 26, 1985 Ontario Municipal Board decision pertaining to 48 Russell Street, Toronto, should not be proceeded with.

- Unless in the event of the introduction or update of a reassessment program, a reassessment undertaken pursuant to Section 63(2) of the Assessment Act intended to assess improvements to a property should result in the assessed value being related to the value of the improvements only, and then added to the existing assessed value of the property.

Reassessment Strategy

It is concluded that the path towards the reassessment of all lands in Ontario has been strewn with indecision.

The following long-term strategy is recommended:

- The Government should adopt as a goal the implementation of Section 63 (within property class) reassessments in all Ontario municipalities that do not have a reassessment program by the end of 1988. Failing the achievement of that goal, such reassessment programs should be made mandatory.

- Market value reassessment should continue to be available as a local option to all municipalities, regions and counties, and provincial assistance in their study and implementation should, when requested, be provided. Following the implementation of Section 63 (within property class) reassessment in all municipalities, the Government should then determine the merits and means of the implementation of full market value assessment for all lands in Ontario.

- Mandatory four-year reassessments should be required for all reassessment programs in place.

- The determination of formulae for for municipal agreement to proceed with regional or county reassessments should continue

to be locally-determined. Provincial efforts should be made to assist in the determination of such formulae.

Metropolitan Toronto

The absence of a reassessment program in Metropolitan Toronto constitutes a significant deficit in the advancement of property assessment reform in Ontario.

As a result of discussions and negotiations with the Mayors and Chairman of Metropolitan Toronto, unanimous agreement has now been reached on a means to proceed towards the adoption of a reassessment program for Metropolitan Toronto.

The resulting proposals herein are not intended to review the merits of reassessment, but to find consensus on how a reassessment program will be implemented.

- A Metropolitan Toronto Reassessment Task Force should be struck, to be comprised of municipal and provincial representatives as outlined herein and agreed to. A Chairman and Director should be appointed to the Task Force, and all facilities, research, data and analysis required by the Task Force should be provided by the Ontario Government.

- The Task Force should be scheduled to reach a locally-determined proposal for reassessment by September 1, 1986.

- In the event of a failure to reach local agreement by September 1, 1986, the Government should determine the merits and formula for a provincially-imposed reassessment.

- Given a locally-determined assessment proposal by September 1, 1986, the Government should now indicate its support in principle for a phased implementation, if so requested, and for assistance in the provision of financial relief to low-income households adversely affected by the reassessment.

3. The Practice of Assessment

3.(a) The Assessment Review Board

The Assessment Review Board is an administrative tribunal administered by the Attorney-General.

The Board is responsible for the hearing of appeals respecting the fairness and accuracy of the assessment of real property in Ontario. The overall case load of the Board has remained relatively stable over the period 1981-1985 (July). The annual number of cases received varied between 167,013 and 179,868.

In reviewing the practice of the Board, three separate matters were considered. The scope of review was limited to the effect of these current administrative practices on the quality of service provided to the property taxpayers of Ontario.

(i) evening meetings

The normal practice of the Board is to hold its hearings during daytime working hours.

The 1977 Commission on the Reform of Property Taxation in Ontario (Blair) recommended that the then Assessment Review Court extend their hearings to evening hours (p.19).

Again, proposals to this effect have been put forward in 1985 in the interest of providing great accessibility to the public. The current practice may well act as an undesirable deterrent to an effective exercise of the right to appeal.

Accordingly, it is recommended that administrative practice at the Assessment Review Board include the scheduling of evening meetings in order to better serve individual appellants.

(ii) written reasons for decisions

The provisions governing the notice of decisions of the Assessment Review Board are contained in the Statutory Powers Procedures Act.

In effect, that Act requires that tribunals such as

the Assessment Review Board must cause written notice of its decisions to be mailed to the parties involved in assessment appeals.

However, written reasons for a decision are to be given only if requested by a party to the appeal.

It is evident that many citizens are not familiar with the need to request reasons for a decision. It is similarly evident that many citizens would expect, in appeals which involve consideration of the detail of an individual assessment or its comparable properties, that such written decisions be delivered as a matter of course as is the case at the Ontario Municipal Board.

While it is arguable that written reasons are not necessary in that Board hearings do not proceed on a "de novo" basis and are not precedent-setting, both the 1967 Ontario Committee on Taxation (Smith) and the 1978 Select Committee of the Ontario Legislature endorsed the proposal to require written reasons for all administrative decisions relating to taxation and assessment.

In a field of government endeavour as complex to most citizens as this one, every reasonable step which explains the basis for administrative decisions should be taken. Further, it is not viewed as reasonable that the delay in rendering final decisions caused by the need to provide written reasons is of a level of concern significant enough to deny individuals the right to the reasons for decisions.

Accordingly, it is recommended that all decisions of the Assessment Review Board be routinely accompanied by written reasons for the decision rendered, whether requested or not; and, that while nothing should prevent verbal decisions, such decisions not have final effect until such time as written notice and reasons are provided.

(iii) fees for appellants

The schedule of fees for appellants has been reviewed in order to determine whether these act as a bar or deterrent to the lodging of an appeal.

Currently, there are no fees required for the processing of an appeal at the Assessment Review Board. Regulation 642/84 under the Ontario Municipal Board Act (Schedule 2) sets a $50.00 fee for each residential and farm assessment, and $5.00 for each additional related Roll Number. All other non-residential and non-farm assessments require a $100.00 fee and $10.00 fee for each additional Roll Number.

These fees are intended to discourage the making of frivolous appeals, and do not appear onerous.

Accordingly, it is recommended that no change be made to the current fee schedules of the Assessment Review Board or the Ontario Municipal Board.

3.(b) The Annual Reactivation of Appeals

Currently, the responsibility for administering an appeal properly filed by a taxpayer rests partly with that taxpayer.

In effect, if an appeal to an assessment made in a previous year is not decided upon by either the Assessment Review Board or the Ontario Municipal Board by the time the assessment notice for the following year is received, it is the responsibility of the taxpayer to, again, appeal the outstanding appeal, in order to maintain it.

A Ministry of Revenue notice to taxpayers reads as follows:

> **"If your assessment is previously under appeal at the time you receive this Notice, or if this Notice does not reflect the most recent decision of the Board, it is necessary that you, again, register a complaint with the Assessment Review Board against this assessment."**

This requirement is based upon the rationale that the assessment roll is an annual document and record, and that decisions only affect the taxes levied and payable in the year in which the appeal is filed.

While there may be administrative ease in the procedure, there are also significant disadvantages of it.

First, the requirement for re-activation of an appeal is not widely understood by the public, and may deny by administrative rule the continuation of an appeal already in progress.

Second, one might well argue that responsibility for continuing the appeal process rests equally with the hearing body once it has begun or scheduled consideration of an appeal.

It appears that this requirement for re-instatement is of little public benefit and yet of potential aggravation to an individual appellant.

A reasonable course would be to consider a properly-filed appeal to have been lodged until such time as it is finally decided upon by the tribunal in question. It is an onerous requirement to require an appellant to re-instate an appeal on the same basis as an earlier appeal simply by reason of the passage of time.

The administrative question of the application of decisions to the year in which the appeal is filed, even when decisions are rendered in a year following the year in which the appeal is filed, should be administratively managed by the Ministry of Revenue.

Accordingly, it is recommended that the requirement for the annual re-instatement of a properly-filed appeal by an appellant be eliminated.

3.(c) The Annual Notice of Assessment

Prior to 1983, all property owners in Ontario received an annual Notice of Assessment.

The Notice may indicate the assessed value of the land and buildings on a property; ownership, occupancy or tenancy; property description; tax classification; and, choice of school support. It will also provide instruction as to the process for appeal, and indicate a location or phone number for assistance and public service.

In 1983, Government policy altered this practice in favour of the mailing of annual notices only to those with some change in their assessment status, and to those who had appealed their assessment in the previous year. (This latter provision enabled those required to re-instate outstanding appeals to receive notice of the need to do so.)

The publicly-distributed rationale for this change had to do with cost savings in the mailing of approximately 6 million notices annually; some duplication of information contained on municipal tax bills; and a greater effectiveness in alerting taxpayers to changes in their assessment.

However, the consultations recently undertaken indicate a wide level of dissatisfaction with this decision. In particular, there is valuable information contained in an Assessment Notice - the process for appeal for example - that is not contained in most municipal tax bills.

Further, it is tenuous to suggest that the most effective means of alerting some taxpayers to changes in their assessments is to deny basic assessment information to others.

Above all, there remains a strong perception that the decision to deny an annual accounting to taxpayers had some basis in a desire to reduce or avoid public controversy.

The selective mailing of notices has now resulted in other difficulties.

For example, taxpayers who are denied an annual Notice are also denied the individual reminder of the right to appeal an assessment that accompanies the Notice. While it might be argued that appeals are most likely to be lodged by those with actual changes to their assessment, it is not categorically the case. Process denied to just one taxpayer is nonetheless process denied.

Similarly, the case can be made that it is the obligation of government, whose responsibility it is to set assessment levels and administer the appeals to those levels, to provide an annual accounting of its activities to each taxpayer.

There has been no argument put as to the need to treat Ontario property taxpayers differently, in principle, from Ontario income taxpayers, who receive an annual accounting from the Government of Canada.

An analysis of the cost of returning to the practice of the mailing of an annual Notice of Assessment has been undertaken. While an annual increase in cost in the order of $2.01 million would be incurred, it is important to recognize that this expenditure would serve to reinstate, and not expand, a public service previously provided to the people of Ontario.

It is recommended that the Notice of Assessment be returned to its former status as an annual statement to all property owners and tenants in Ontario.

Further improvements to the Notice of Assessment itself are set out in Section 5(d).

3.(d) The Burden of Proof

Administrative practice in relation to assessment in Ontario embodies the principle that an assessed value as determined by an assessor is correct unless determined otherwise through the process of appeal.

In effect, the onus rests upon the taxpayer to prove that there is something incorrect or inequitable with his or her assessment.

The application of this principle extends to govern the status of assessed value and tax liability while an assessment is under appeal. The Assessment Act provides that the assessment roll cannot be altered until a final and determinative judgement has been made respecting the assessment of a property under appeal. (s.36,(6), 1981)

Some taxpayers understand this to mean that they are guilty until proven innocent. That is, when they appeal an assessment, the presumption is not that there is a fair-minded dispute between two parties, the resolution of which takes effect when the dispute is settled.

Rather, the practice is that a higher level of assessment and taxes are automatically put into effect unless and until they are reduced.

During the period of appeal, and prior to the resolution of the appeal, the taxpayer pays the higher rate of taxes.

This imbalance between the parties is reinforced further in the case of those municipalities which do not pay interest on the overpayment of taxes by a taxpayer who successfully lowers an assessment. (It is worth noting, however, that municipalities are typically quick to charge interest to a taxpayer on outstanding taxes in arrear.)

During the consultative process, there were numerous suggestions made to remedy this situation. Common to all of them was the elimination of the current burden of proof on the taxpayer and its replacement with a mechanism that puts both parties - the taxpayer and the government - on an equal footing in the event of an appeal.

It is concluded that this step should be taken, and it is noted that recent Federal changes to the treatment of tax liability in the case of income tax disputes, although not yet legislated, also move in this direction.

Accordingly, it is recommended that the lodging of an appeal act as a stay on the disputed amount of the newly-determined assessment until such time as the matter is finally resolved by the Assessment Review Board or the Ontario Municipal Board. Payment would continue on the non-disputed amount; that is, the level of assessment existing prior to the increase.

In other words, taxpayers disputing their assessments would not be subject to tax increases until the dispute is resolved.

It is also recommended, in line with Federal practice related to income tax disputes that, in the event a taxpayer is unsuccessful in an appeal from the Assessment Review Board or the Ontario Municipal Board to a court, the taxpayer then be required to pay the disputed increase in taxes or post security, even though the taxpayer intends to appeal that first court decision to a higher court.

It is conceivable that certain individuals or corporations - some of whom appeal all assessed values as a matter of course - may simply undertake an appeal in order to defer the payment of increased taxes. In this event, municipalities could be temporarily deprived of valuable income. In the larger urban centres, the commercial and industrial revenues so deferred could be substantial.

Accordingly, it is recommended that, as a deterrent to the deliberate deferral of the payment of taxes, any increase in assessment and taxes as finally determined be subject to the mill rate and be made to apply and have effect retroactively to the date of the appeal.

Consideration has also been given to the payment of compensation on outstanding amounts of taxes owing as a result of a decision on an appeal. The option of requiring a fee payable to the municipality for the making of an appeal as a means of helping compensate municipalities for the loss of deferred income has been rejected as cumbersome and insufficiently related to the actual compensation owing to the municipality in the event that an appeal seeking a reduced assessment fails.

Instead, and consistent with the principal of a fair and equal footing being afforded to both parties in the dispute, the payment of interest on amounts owing is favoured.

Accordingly, it is recommended that, in the event of an unsuccessful attempt by a taxpayer to reduce his or her assessment, the municipality be entitled to charge interest on the amount of taxes owing, retroactive to the date of the appeal.

Similarly, interest would also be charged on amounts owing if the appeal was successful in reducing the assessment, but unsuccessful in reducing it to its original assessed value which existed prior to the making of the appeal.

It is also recommended that the interest rate to be charged be the subject of municipal determination, but that it may not be more nor less than the municipality elects to charge on the payment of overdue taxes. No minimum or maximum rates are proposed for these two interest rates.

Finally, consideration has been given to the appeal by a municipality or school board of properties they believe to be underassessed in value. It is concluded that, in the event of a successful appeal which has the effect of raising the assessed value, no retroactivity or interest rate provisions should apply.

In a case such as this, there should be no penalty imposed on the owner since no action was taken by him or her to avoid or defer the payment of taxes.

3.(e) The Performance of Assessors

While a thorough review of the performance of the assessors of the Ministry of Revenue was not contemplated in the preparation of this report, it has become evident that some of the dissatisfaction with the practice of assessment generally has been directed at the practitioners themselves.

It is important to indicate that the consultative process undertaken resulted in an overall level of satisfaction with the competence and performance of assessors.

Full appreciation is afforded the fact that while professional objectivity must be the basis for decision-making, the proper exercise of assessment will require some level of discretion and subjectivity on the part of an assessor.

The proposals set out herein relate primarily to the managing of the on-the-street practice of assessment. It is assumed that the recommendation of clear guidelines as to this practice will be of assistance to both the assessors and the assessed.

The 1977 Commission on the Reform of Property Taxation in Ontario (Blair) was critical of the quality of assessment work undertaken at the time. (p. 17, 18)

However, it is worth noting the extensive historical record of training available to assessors, including the first university-affiliated correspondence training program initiated by assessors in 1954; Ontario's support for the program in 1963; the production in 1964 of a valuation technique and building cost manual; and the formal licensing of assessors in 1966.

Upgrading in training has continued since the Ontario take-over of the assessment function in 1970. Educational and training programs have been put in place at Queen's University, York University, the University of Guelph, and at Fanshawe, Seneca and Loyalist community colleges. Attempts are now underway to develop a national core curriculum for these courses.

In terms of the training offered by the Ministry of Revenue, it is recommended that improvement be undertaken in the promotion of familiarity with local conditions for assessors temporarily relocated to undertake time-specific assessment work.

In response to deputations received, there are two specific matters relating to assessor practice which require attention.

The first has to do with the practice of setting an assessed value without benefit of an internal inspection of a building. While such "windshield assessments" are clearly not the norm, there is a widespread perception that the practice does occur.

The current Ministry of Revenue policy requires that two on-site calls be made at each property. If unsuccessful, a standard notice is to be left on the property, requesting the owner or tenant to contact the assessor in order to arrange for an internal inspection. In the event that no arrangement is made, the assessor then determines an assessment without benefit of an internal inspection.

It is important that every effort be made to secure an internal inspection, and that the process outlined above be followed in every case.

Accordingly, it is recommended that the Assessment Program Policy Manual - which is proposed for wider distribution in Section 5(a) - be amended to outline the process for on-site inspection in determining assessment.

Further, it is recommended that failure to comply with the process outlined above result in disciplinary action being taken, and that this banning of "windshield assessments" be indicated by Ministerial statement and by an amendment to the Assessment Program Policy Manual.

The second specific matter requiring attention involves the reported practice of individual assessors in discouraging appeals.

In particular, there are reported occasions of assessors discouraging an individual from making an appeal on the basis that the effect will be to alter the assessed value of the property of neighbours.

It is recommended that the Assessment Program Policy Manual be amended by the introduction of a statement discouraging this practice and affirming the professional objectives of public service.

3.(f) Third Parties and Tax Agents

In recent years, the complexity of assessment and property tax matters has contributed to an increase in the number of agents acting on behalf of appellants.

While no review has been undertaken, nor conclusions drawn, with respect to the qualifications of agents or their regulation, a number of procedural matters have come to light.

By way of background, the Assessment Act currently permits any person to lodge a complaint with the Assessment Review Board as to the proper assessment of another person's property. The sole condition to such a lodging involves the provision of notice by the complainant to the affected person and to the Assessment Review (Section 39 (1), (2), (3)).

There were deputations received which encouraged the elimination of this right as an intrusion into the privacy of the affected person. Concerns were raised as to the prospect of complaints being filed for reasons unrelated to the accuracy of the assessment.

The deputations favouring retention focused on the fact that assessed value itself is a matter of public record, and that the right to appeal does provide a means for the remedy of inequities which may not have been discovered by the local assessor.

Beyond this question of appeal by one person of another's assessment is the role of the tax agent, who may offer solicited or unsolicited services to a person in the hope of reducing the assessed value in return for payment. He/she may also act under the authority of Section 39 of the Assessment Act. The evolution of administrative practice in this latter area has been influenced by decisions of the Assessment Review Board and the Ontario Municipal Board in 1984 and 1985;

1. In September 13, 1984, the Assessment Review Board held that appeals filed by one Toronto firm on behalf of 718 separate owners represented a form of soliciting, and could not be scheduled for hearing. Each owner had received a letter from the firm indicating that it would undertake an appeal for payment equal to the amount of reduction in taxes for 1984.

2. On January 23, 1985, and June 19, 1985, the Ontario Municipal Board ruled on the standing of two appeals pertaining to condominiums.

In the first case, the Board ruled that the appeals were not properly filed because the tax agent had not obtained authorization for appeal from the individual condominium unit owners.

In the second, the Board ruled that authorization from the condominium corporation only was similarly insufficient to gain standing on behalf of individual unit owners.

3. On February 28, 1985, the Ontario Municipal Board gave standing to a tax agent on two separate condominium hearings, ruling that the continual course of conduct by the agent, the condominium corporation and the condominium unit owners gave sufficient authority to the agent to permit the filing of appeals.

Accordingly, there are two matters at hand:

Should an individual continue to be entitled to appeal the property assessment of another without prior consent; and, should tax agents be similarly constrained?

One means of resolution is to continue to permit any person to appeal the assessed value of any other person. In the absence of a requirement for prior consent, however, agents would continue to be permitted to appeal an assessment without the prior agreement of the owner of the affected property. Adding a requirement for prior consent, however, would not prove useful in the case of an appeal by one person of another's assessment, since it is unlikely that consent would be given.

Another means of resolution is to bar any appeal, whether by an individual or an agent, without prior consent by the owner.

While this would overcome the problem of the invasion of privacy, it would seriously handicap appeals by municipalities and schools boards, who are also "persons" under Section 39, and who should retain the right to challenge the assessments upon which their own revenues are based.

It is evident that a requirement of prior consent applicable to municipalities would be prohibitive: consent would not likely be agreed to by individual owners.

This is a complex matter which has been reviewed carefully.

On balance, it is concluded that the current permission to appeal the assessment of another person without prior consent of that person is too large an invasion of privacy to continue to be justified. The benefit of this current permission, namely the remedying of inequities, can be alternatively resolved by a request to the Regional Assessment Commissioner to reconsider the assessed value of any property at any time.

However, a condition of prior consent should not be applied to municipalities, school boards, or the Government of Ontario. In these cases, legitimate actions based on the public interest must be permitted to proceed.

Accordingly, it is recommended that Section 39 of the Assessment Act be amended to require prior consent in the appeal of another person's assessment, save for any appeal undertaken by a government or school board.

In the matter of tax agents, it is concluded that a similar condition must apply.

Accordingly, it is recommended that no agent of any owner be permitted standing at the Assessment Review Board or the Ontario Municipal Board unless the prior written consent of the owner of the affected property has first been obtained.

In the matter of the application of this principle to condominium corporations, it is abundantly clear that individual condominium unit owners need not be provided any lesser degree of privilege than any other owner.

A single condominium owner - who is individually assessed for his/her property - may well be in disagreement with a decision to appeal undertaken by the condominium corporation. Even in that event, an individual owner should not be denied his/her right to an individual decision to an appeal or otherwise.

Specific legal research and advice has been provided on this matter, and the provisions of the Condominium Act.

It is recommended, notwithstanding the Condominium Act, that no agent or condominium corporation be given standing at the Assessment Review Board or the Ontario Municipal Board in the matter of an appeal of any or all of the units in a con-

dominium building, unless the prior written consent of the affected individual unit owner has first been obtained.

An exception to this rule should apply to the units owned by the condominium corporation itself, in which case its own prior consent is not necessary.

Consideration has also been given to the requirement for prior consent in respect of tenants. This matter was raised by deputants whose concern lies primarily with major commercial retail operations.

It has been proposed that, in the event of an appeal by an owner of property occupied by one or more tenants, that the prior consent of the tenant not be required. By example, this scenario would involve tenants of a residential apartment building, or of a commercial shopping centre.

It is recommended that the prior consent of tenants not be required, in that the prior consent of an owner - whether acting on his/her own behalf or whether the subject of an appeal by another person - would already be required.

However, it is fully appropriate that tenants be apprised of actions respecting the properties they occupy. Accordingly, it is recommended that, where tenants are affected, owners be required to notify tenants of the facts, in the event

that a decision to appeal an assessment of the subject property is instigated by the owner. Further, this requirement should be legislated, and the proof of its having been carried out should act as a pre-condition to the commencement of any hearing before the Assessment Review Board or the Ontario Municipal Board.

The matter of the timing of such prior consent or information notices has been reviewed.

It is advisable that such requirements not delay the appeal process, nor be so onerous as to be difficult to complete within the appeal periods of the A.R.B. and the O.M.B.

Accordingly, it is recommended that the proposals for prior consent permit such consent to be received at any point in time up to the actual commencement of the hearing.

While this proposal may serve to, again, promote unsolicited appeals by tax agents, it has been earlier recommended that such appeals not be proceeded within the absence of written concurrence by the affected owner.

3.(g) The Payment of Tax Bills

Pursuant to the Municipal Act, a municipality may provide for the payment of taxes within 14 days of the mailing of the tax bill.

In addition, a municipality may provide for the payment of taxes in bulk or by instalment, and may also allow discounts for early payments and impose charges for late payments.

Some concern has arisen over the adequacy of the 14-day period.

In particular, a survey undertaken in 1982 by the Canadian Property Tax Agents Association of 192 municipalities indicated that there was an average of 5.2 days that tax bills were held in the mail. In 1983, a survey of 209 municipalities found a similar mail delay average of 5.0 days. In some cases, delays of up to 18 days occurred.

In that some corporate citizens require a minimum period of time within which to routinely process tax bills for payment, it is advisable that the 14-day period be extended to 21 days.

This 21-day period is the same time frame allowed for appeals to the Assessment Review Board following return of the roll; and for appeals to the Ontario Municipal Board following the mailing of a decision by the Assessment Review Board.

Bill 60, An Act to amend the Municipal Act, was introduced for first reading on May 8, 1984. While its proposed Section 26 had precisely this effect, it was not proceeded with.

Accordingly, it is recommended that the 14-day period for the payment of taxes be extended to 21 days, prior to which charges for late payment may not be imposed.

3.(h) Affirmative Action

Of the 65 current members of the Assessment Review Board, only 3, or 4.6%, are women.

Given this situation, it is recommended that affirmative action efforts be undertaken to bring the level of representation of women on the Board in line with their representation in the general population.

4. Ministry Program Review

4.(a) The 1985 Freezing of Assessments

Following the take-over of the assessment function from the municipalities by the Ontario Government in 1970, the government announced its intention to introduce a comprehensive Ontario-wide market value assessment program for all municipalities.

In July, 1971, Bill 127 was introduced to provide a timetable for the pending introduction of market value assessment. Specifically, all property was to be reassessed in 1974 at current market value for municipal taxation in 1975.

In order to permit a program of property inspection and valuation, two of the elements of the existing system were "frozen":

- existing regional, county and school board apportionments amongst constituent municipalities were frozen at 1969 levels; and,

- existing assessments for all properties were frozen at levels contained in the municipal assessment rolls.

Accordingly, Section 63(1)(a) of the Assessment Act first described the assessment roll to be returned in 1974 as the assessment of all real property set out on the roll from 1970 through to 1974.

However, no complete program for market value assessment was introduced in 1974, nor has it been to date. Accordingly, this Section 63(1) of the Assessment Act has been amended 11 times since, each amendment having the effect of maintaining the freezing of the assessment roll on an annual basis.

While it is ultimately desirable that some form of a program for market value assessment replace this annual process of the freezing of the roll, it clearly cannot be achieved in 1985.

Accordingly, it will be necessary to introduce a further amendment to Section 63(1) of the Assessment Act to continue the freeze of the assessment roll to be returned in 1985.

The failure to do so would result in the reassessment of all properties in Ontario at full market value on January 1, 1986, and in every year thereafter.

Consideration has been given to the extension of a freeze over a longer period of time than one year.

On balance, it is recommended that the duration of the freeze continue to be for a period of one year only. The process of consideration and public accountability that follows the introduction of an annual bill should continue to act as an incentive to the ultimate formulation of a program for market value reform.

The statutory deadline for the return of the assessment roll is December 17, 1985. Given time requirements pertaining to the production and mailing of assessment notices and the advertisement of open houses, the production of the assessment notices should begin on November 7, 1985. Accordingly, legislation could, in the normal course, be introduced into the House in the third or fourth week of October, 1985.

Alternatively, the Government may wish to delay the return of the roll this year to a date in early 1986, in order to give consideration to the recommendations of this report at the same time as consideration is given to the bill freezing the roll.

4.(b) Condominiums/Co-Operatives

There are approximately 170,000 condominium and co-operative housing units in Ontario. The question of their proper and equitable assessment has been without certainty and clarity for over a decade.

Given the complexity of the current circumstances pertaining to the assessment of condominium and co-operative units, some background is necessary.

In the 1967 Smith Committee Report, it was concluded that some municipalities had been assessing rental apartment buildings at a level higher than single family homes.

Following the Ontario takeover of the assessment function in 1970, and the development of the condominium and co-operative housing movement, the Province continued to assess these units on the same basis as rental apartment buildings.

The effect was that condominium/co-operative units, which were frequently worth less in the marketplace than single-family houses, were bearing a higher level of taxation than single-family houses.

In 1972, York Condominium Number 26 was successful in having the then Assessment Review Court reduce the assessed value of these condominium units to a level in line with nearby single-family houses.

Other condominium owners followed suit, in the face of the Provincial position that equity would be achieved only by the comparison of condominium units with similar real property: i.e. other condominium units.

In 1975, the Minister of Revenue introduced an amendment to Section 65(2) of the Assessment Act, the effect of which was to bring the assessment of condominiums and co-operatives into line with "owner-occupied single-family residences in the vicinity . . ." as follows:

> **For the purposes of subsection (1) and of section 63, where a residential assessment is made with respect to a unit, as defined in the Condominium Act, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.**

As a result, a class ratio of assessment to 1975 market value of "owner-occupied single-family residences" was calculated in every municipality having condominium/co-operative units. That ratio was then applied against the 1975 market value of each condominium/co-operative unit, so that their assessments were at the same ratio as "owner-occupied single-family residences."

The resulting assessments were then frozen at their 1975 values, in keeping with the freezing of all other properties in 1971. In municipalities assessed under the Section 63 Reassessment Program, condominium assessments were altered in the common market value base year. Otherwise, the assessments of condominium/co-operative units were frozen.

Following 1975, there were a variety of tribunal and court decisions relating to the assessment of condominiums/co-operatives. Collectively, the effect was to remove any level of certainty in practice that may have existed in 1975.

Set out below are summaries of 9 such cases, some of which are inconsistent:

. **Calvin Parks v. Regional Assessment Commissioner, Region No. 3. (O.M.B., November 24/77)**

The Ontario Municipal Board (O.M.B.) held that in determining the assessment to sale ratio, sales of owner-occupied single-family units in all types of housing - detached, semi-detached, duplex, triplex, row housing, etc. - should be used.

. **York Condominium Corporation No. 300 and No. 299 v. Regional Assessment Commissioner, Region No. 14. (C.J., January 13/78)**

The county judge held that the general freeze provision was in effect for all properties including condominiums because no section of the Act can act independently from any other section. Therefore, condominiums did not have to be valued annually using current sales.

. **Peel Condominium Corporation 1976 v. Regional Assessment Commissioner, Region No. 15. (O.M.B., November 27/78)**

The Board did not adjust the assessments of the subject condominiums to bring them in line with other condominiums situated in the same regional municipality because previous court decisions had defined vicinity as being within the area municipality's boundaries which existed at the time the assessments were frozen.

. **York Condominium No. 272 v. Regional Assessment Commissioner, Region No. 14. (C.J., November 21/80)**

In this appeal, the county judge ruled that the more appropriate and equitable vicinity when calculating the assessment to sale ratio was a

two block radius around the subject properties and not the whole of the Town of Markham. The judge further decided that, because the market value of the subject properties had fallen so drastically, the assessments should be adjusted to reflect the different market climate.

The O.M.B. confirmed this decision in 1983.

- **The Gazebo v. Regional Assessment Commissioner, Region No. 14. (C.J., February 23/81)**

The county judge decided that the vicinity for this appeal should be a twenty city block area around the subject property and not the entire Town of Markham.

In November 1982, the O.M.B. reversed the county judge decision and held that sales of single family residences throughout the entire Town of Markham should be used in establishing the assessment to sale ratio.

. **Westok Holdings Ltd. v. Regional Assessment Commissioner, Region No. 9. (O.M.B., December 12/83)**

The Board held that it is not correct to factor the market values of the condominium units back to 1975 when the condominiums were not built until some time later than 1975.

It further held that the assessment of the condominium should be based on market value as determined by sales in the year the condominium was completed and registered. The Board did not accept the entire municipality as the vicinity.

. **Anthony Samotus v. Regional Assessment Commissioner, Region No. 9. (O.M.B., January 19/84)**

The O.M.B. held that it was correct to compare the level of assessment of the subject condominium to other condominiums in the vicinity. No reference was made to the level of assessment of other owner-occupied single-family residences.

. **The Karleton Company Ltd. v. Regional Assessment Commissioner, Region No. 9. (O.M.B., March 15/84)**

The O.M.B. held that vicinity should be a relatively homogeneous area, large enough to obtain reasonable sampling of sales of single-family residences, but not necessarily bound by significant roads or other boundaries.

. **General Property Management York Condominium 312 R v. gional Assessment Commissioner, Region No. (10. (O.M.B., August 8/84)**

The assessor established the market value of the condominium units using all actual sale prices of the condominiums in the year under appeal (in this case, 1981). The O.M.B. accepted this as the correct method for determining the base level of market value to be used in calculating the assessed values of the condominium units.

By late 1984, the situation had become confused to the point that clarification of the assessment status of these properties was essential in the public interest. By year end, some 60,000 appeals by condominium/co-operative owners were

being processed by the Assessment Review Board and the Ontario Municipal Board.

Some clarity finally came in the form of two significant Ontario Divisional Court rulings in late 1984:

(i) In **Peel Condominium No. 57 and Maynard, v. the Regional Assessment Commissioner, Assessment Region No. 15 and the Assessment Review Court** (September 6, 1984) the Divisional Court held that condominiums must be assessed at the same level of assessment to market value as owner-occupied, single-family residences in the year under appeal.

This was a reversal of the decision of the High Court of Justice in October, 1982 which had stated that the intent of the legislation was to place a general freeze on all assessments, including condominium assessments. Prior to this, the Assessment Review Court had confirmed the 1980 assessment of this condominium in its decision on January 6, 1982.

However, the court ruled: **"To achieve this (similar ratio of condominium/co-operatives with single-family residences) probably requires the assessor or court**

to look at the relative market value in the vicinity annually to determine the proper proportions."

Leave to appeal this decision was denied on October 29, 1984, and the Minister directed the annual reassessment of all condominiums/co-operatives (170,000) for taxation in 1984.

The cost to the taxpayers of this reassessment was approximately $350,000.

The effect, overall, was that approximately two-thirds of all condominium/co-operative owners received a decrease in their assessment. The effects by major Ontario cities (for 124,986 units) were as follows:

Municipality	Total No. of Units	Number Increased	Number Decreased	Number Unchanged	Resultant Tax Change
City of Mississauga	20,095	3,360	16,735	0	- $2,439,069
City of Brampton	5,980	0	5,651	329	- 1,093,188
City of Burlington	4,001	1,054	2,947	0	- 326,215
Town of Halton Hills	433	177	256	0	- 5,059
City of Oakville	2,420	712	1,708	0	- 45,615
Town of Milton	984	0	984	0	- 155,372
City of Ottawa	11,356	6,017	4,935	404	+ 517,932
City of Gloucester	7,175	3,578	2,635	962	+ 345,290
City of Nepean	3,619	1,332	1,628	659	- 92,637

Municipality	Total No. of Units	Number Increased	Number Decreased	Number Unchanged	Resultant Tax Change
Borough of East York	1,768	206	1,562	0	- $ 147,279
City of Scarborough	15,300	4,447	10,697	156	- 1,267,703
City of North York	24,858	7,097	16,784	977	- 1,555,355
City of York	3,053	1,788	1,196	69	+ 122,372
City of Etobicoke	11,164	2,736	8,425	3	- 574,344
City of Toronto	12,780	2,897	9,042	841	- 3,462,712
TOTALS	124,986	35,401	85,185	4,400	-$10,178,954
	(100% of sample)	(28.3%)	(68.2%)	(3.5%)	

(ii) In a verbal decision given on November 9, 1984, re: **York Condominium Corporation No. 381 et al. v. The Regional Assessment Commissioner, Assessment Region No. 12**, the Divisional Court held that the level of assessment of both owner-occupied, single-family residences **and condominiums** must be considered in determining the assessment to sale ratio for the vicinity. (Written decision dated November 26, 1984).

This was a reversal of the decision of the Ontario Municipal Board which had held that under appeal condominiums should be compared only to condominiums with no reference to other owner-occupied single-family residences.

This principle was recently affirmed in an appeal heard by the Divisional Court:

. **York Condominium Plan 460 et al. v. Regional Assessment Commissioner, Region Number 11** (Div. Ct., June 27, 1985 and O.M.B., February 21, 1985 - 17 O.M.B.R. 74):

> "We are of the opinion that the Ontario Municipal Board reached the right conclusion, although we do not share the reluctance expressed by the Board. The Board was right in considering itself bound by the view of

> this court in the York Condominium Corporation No. 381 case that the phrase "single family residences" in S. 65(2) of the Assessment Act includes both houses and condominium units, a view, we add, with which we agree. That the facts of that case were different and that the court in that case may not have heard the argument made before us by the appellant are not factors that diminish the soundness of the principle enumerated in that case."

As a result of these recent judicial decisions, there are now three decisions facing the Ontario Government.

1. Should the annual reassessment of condominiums/co-operatives as directed by the courts and undertaken in 1984 be continued?

There are clearly difficulties that have resulted and would result if the annual reassessment were to continue.

First, the preparation of 1985 market value assessments for condominiums/co-operatives is inequitable vis a vis other classes of property which have assessed values based in a previous year.

Second, the loss of the "freeze" for condominiums/ cooperatives denies to the owners of these units the stability provided to owners of all other classes of property.

Third, the resulting increase in workload for the Ministry of Revenue may pre-empt the undertaking of other useful assessment work such as the maintenance of general reassessments for municipalities with Section 63 reassessment programs in place.

Fourth, the unfreezing of this class of property may result in judicial decisions requiring the unfreezing of other classes. The effect would be the introduction of market value assessment on a property-class, Ontario-wide basis.

Accordingly, it is recommended that the Assessment Act be amended to restore the freezing of all condominium/co-operative units, in order to provide this class with the same stability afforded other classes of property.

2. Should the calculation of assessment for condominiums/co-operatives be based in the same proportion of value as **"owner-occupied single-family residences"** which include only single-family houses, or which include single-family houses and condominiums/co-operatives?

The York Condominium 381 and 460 cases determined that **"owner-occupied single-family residences"** included in meaning both houses and condominium/co-operatives. Deputations have been received on this question which urge that the presumed intention of the 1975 legislation - that being comparison to houses only - be restored.

The 1975 legislation was primarily intended to alter the comparison of condominiums/co-operatives with rental buildings to a comparison with owner-occupied single-family housing. It is a supportable contention that a condominium unit can reasonably be construed as an **"owner-occupied single-family residence"**.

Further, to eliminate the comparison of condominiums with other condominiums would appear to violate the essential principle of the comparison of properties with similar properties in the vicinity. It must be concluded that a condominium is a similar property to another condominium.

Accordingly, it is recommended that no amendment be undertaken to Section 65(2) of the Assessment Act which would have the effect of providing for the comparison of the proportion of the market value of condominiums/co-operatives with single-family houses only.

3. Should relief be provided to condominium/co-operative owners reassessed in 1984?

While a rollback of all increases would assist the minority of owners who received increases in their assessments, fairness would require that the majority of owners with decreases in assessments should similarly be increased to their previous levels of assessment.

Such a procedure would add a further inequity to the treatment of these citizens and should not be undertaken.

In the alternative, it has been recommended that a freeze be immediately re-introduced on all condominium/co-operative units in order to restore to these owners the treatment now enjoyed by all other owners.

As a final matter, consideration has been given to the role of tax agents in relation to condominium corporations, and recommendations are contained in Section 3.(f).

4.(c) The Disabled and Seniors in the Community Program

The Disabled and Seniors in the Community Program was first introduced in the May, 1984, Ontario Budget, and is set out in Section 3.22 of the Assessment Act.

The expressed purpose of the Program is to provide a tax incentive to the disabled and elderly as a means of assisting these citizens to remain in their homes as an alternative to institutional care.

Alterations, improvements and additions to a residential property which were undertaken after May 15, 1984, in order to maintain a disabled or elderly person in their home, who would otherwise require institutional care, are eligible for exemption from increased taxation due to increased assessment.

While the Program is fully supportable, it has had relatively little take-up.

During the period May 15, 1984, to May 15, 1985, only 136 eligible exemptions were granted, resulting in a total cost to municipalities in lost revenue of $25,000.

In order to make better use of this Program, two proposals are put forward:

(i) Application of the Program to Group Homes.

The Assessment Program Policy Manual indicates the application of the Program to those with mental disabilities. (S.3.22). Further, non-profit group homes are specifically eligible.

However, such group homes are eligible only to the extent that they do not contain more than **"3 residential units,"** otherwise defined in the Assessment Act as **"a domestic establishment of two or more rooms in which the occupants usually sleep and serve meals".**

Hence, while the Program is intended to apply to group homes, the limitation of a maximum of 3 residential units and the implied requirement for the serving of meals does not reflect a typical group home operation.

In that the definition of a group home for the developmentally handicapped or physically disabled developed by the Ministry of Community and Social Services permits between 3 and 10 persons, exclusive of staff, it is appropriate that this expanded definition now be applied to this Ministry of Revenue program.

Accordingly, it is recommended that Section 3.22 of the Assessment Act be amended to permit the application of the Disabled and Seniors in the Community Program to extend to include improvements to group homes (residential care facilities) housing up to 10 persons, exclusive of staff.

(ii) Publicity of the Program

Given the relatively low take-up of the Program, and its minor effect on municipal revenues, it is appropriate that the advertising program undertaken in May 1984 (advertisements, fact sheets, bulletins, telephone enquiry service) be undertaken again in order to extend the understanding and application of the Program across Ontario.

4.(d) Environmental Hazards

The determination of the assessment of property for taxation has not been particularly sensitive nor responsive to the loss of property value due to environmental hazards.

Indeed, one would not expect that it would be.

One would expect, however, that in a comprehensive market value assessment system, devaluations due to known environmental hazards or any other eventuality would be fairly represented in the market value of the property, and, therefore, its level of taxation.

In Ontario, one cannot satisfy that expectation. As a result, a review of government practice in altering assessments due to environmental hazards has been undertaken.

To date, experience in Ontario has been limited to the installation of Urea Formaldehyde Foam Insulation in residential dwellings.

Originally, in 1981, a policy of freezing the assessments of properties containing U.F.F.I. was put in place. In 1982, on the basis of a determined average reduction in market

value, a 35% reduction in assessment was granted to appellants with U.F.F.I. However, larger reductions were permitted by assessors in certain unspecified situations.

The effect of this approach is to deny revenue to municipalities. In the event that the municipality itself is not responsible for the presence of the hazard, it is, therefore, penalized unfairly. A direct tax rebate from the municipality carries with it the same difficulty. Further, there is no process to promote or secure relief from the party actually responsible for the hazard.

On the other hand, a failure to provide some degree of assessment or tax relief to individual property owners may itself constitute a hardship for many people, and will deny the kind of responsiveness of assessment to local conditions that is clearly desirable.

Having reviewed this situation, the following remedy is proposed:

1. A list of potential hazards wider than U.F.F.I. should be developed, and a policy for a reduction in assessment determined for each.

Such list might well include radioactive soil, P.C.B. or other chemical residue, groundwater contamination, or even demonstrable effects of airborne pollution.

2. Upon the discovery of a hazard, the policy should be announced, and administered directly by assessors in order to provide immediate relief to affected owners.

   At the same time, the policy should be communicated by the Minister of Revenue to the Assessment Review Board and the Ontario Municipal Board for their consideration in the event of assessment appeals, and to the Clerk of any affected municipality.

3. At the time of the discovery, it should be the responsibility of the Minister of Revenue to undertake to determine the party/government(s) responsible for the presence of the hazard, and to bring forward a recommendation intended to gain relief from such party or government(s).

   In this manner, accountability to aggrieved persons, and to municipalities free from responsibility in the matter, may be pursued.

4.(e) Day Care Centres

All non-profit day care centres occupying taxable property in Ontario are assessed and taxed at a residential rate of assessment.

All profit-making day care centres, wherever situated, are assessed and taxed at a commercial rate of assessment, and are also liable for business assessment at a rate of 30% of the assessed value.

In recent years, the status of non-profit day care centres occupying surplus school space has been called into question.

In particular, the buildings and grounds of a university, high school or public or separate school are exempt from assessment and taxation, provided such buildings and grounds are used and occupied by the institution itself.

Prior to 1983, non-profit day care centres occupying such school space were subject to assessment and taxation. In that year, by Cabinet decision, the assessment of such centres was held in abeyance pending a review of the property tax treatment of all non-profit community-based organizations.

However, no such review was ever acted upon, and the exemption for non-profit day care centres was not legislated.

Property tax relief of non-profit child care facilities would provide a useful incentive to the establishment of such facilities on school property. Further, such relief would encourage a locally accountable and community-based network of child care, and ultimately assist in the integration of pre-school childhood education with the current educational curriculum.

It is appropriate that such relief now be legislated.

Accordingly, it is recommended that the Assessment Act be amended to provide an exemption to non-profit child care centres which occupy educational or any other property already having an exempt status under the Act.

Further, it is also appropriate that the Ministry of Revenue, in consultation with the Ministries of Education and Community and Social Services, now proceed to review the tax treatment of all non-profit, community-based organizations, having particular regard to the exemption of organizations occupying property already exempt from assessment and taxation.

4.(f) The Placement of the Assessment Function

On July 1, 1969, the Ontario Government assumed responsibility for the assessment of property in certain northern Ontario communities. On January 1, 1970, Ontario assumed full assessment responsibility for all property in the Province.

Prior to this takeover, the authority for determining assessments had been assigned to Ontario's municipalities.

The rationale for the takeover was based on severe variations in local practice and in unacceptable inequalities among properties, among classes of properties, and between municipalities. As one serious consequence, the distribution of provincial grants to municipalities was skewed to the extent that the assessment base was inaccurate or inequitable.

As far back as 1963, an Ontario Government survey of 940 municipal assessment rolls produced the following results:

- 64% of the municipalities had neither revised nor adjusted assessed values since 1956;

- 14% of the municipalities had failed to properly prepare the assessment roll;

- 66% of the municipalities had failed to send assessment notices to tenants, the frequent result of which was the loss of voting rights; and,

- 17% of the municipalities did not assess or collect for business tax purposes.

In a 1964 speech, Municipal Affairs Minister Spooner indicated that "if the administration of the tax base by the senior levels of government were as inadequately administered, the nation would probably be bankrupt."

In 1970, there were approximately 1.75 million properties recorded as taxable on municipal assessment rolls. The provincial review of these rolls resulted in approximately 2.6 million properties being placed on the rolls only three years later. Clearly, there had been a substantial number of omissions from the rolls, and a corresponding loss of municipal revenue.

The takeover represented a savings to municipalities of $15 million in 1970, and a corresponding reduction in provincial grants was undertaken.

Consultation and analysis has been undertaken on the merits of the retention of this function as a provincial responsibility, or its devolution to municipalities.

(i) Other Jurisdictions

By way of background, practice in other jurisdictions indicates a decided preference for the administration of assessment by senior levels of Government.

In Canada, assessment is an exclusive provincial responsibility in 5 provinces; and a shared responsibility in 3. Only in Alberta and Quebec do municipalities exercise authority. Further, Quebec's municipalities are constrained by the 1977 Manual of the Ministry of Municipal Affairs; and 90 per cent of Alberta's municipalities contract with the provincial Department of Municipal Affairs for their assessment services.

Assessment is assumed directly by the governments of the Yukon and the North West Territories.

The British experience is similar: in 1950, valuation of property for local tax purposes was assumed by the Inland Revenue Department of the national government.

Practice in the United States is largely a local responsibility, although the selection of assessors is tied to the local election process and is, therefore, not comparable with Canadian experience.

(ii) The Merits of a Municipal Assessment Administration

(a) It is purported that the devolution of assessment practice to municipalities would be a welcome step in the promotion of increasing levels of autonomy for municipalities.

However, the devolution of assessment practice may prove counter-productive in this regard.

Clearly, the highest and most useful level of municipal accountability, short of a separate system for taxation, is to be found in the setting of tax policy by the introduction of flexible mill rates. In the event that assessment practice remains a provincial responsibility, the possibility for greater flexibility in municipal mill rates is improved. In the event of a devolution of assessment to municipalities, mill rate flexibility would surely be restricted in the interest of producing an equitable province-wide system of taxation.

(b) Currently, there is a split responsibility between those who determine levels of taxation and those who collect the tax. The former belongs partly to the Province; the latter to the municipalities.

Assigning both functions to municipalities by the devolution of assessment practice would increase local clarity and accountability for taxpayers.

However, it should be noted that this new dual municipal role is not typical of Federal-Provincial relations in taxation matters. In fact, municipalities as tax collectors might be said to now have greater authority vis-a-vis the Ontario property tax than does the Province of Ontario vis-a-vis the Federal income tax.

(c) Devolution could not likely be assigned to all of Ontario's municipalities, by simple reason of their size and levels of municipal staffing. Further, some municipalities will oppose the return of this function.

Accordingly, it is entirely likely that another partial layer of government administration would develop, perhaps at the regional and county levels as a first step.

The ultimate result would be greater confusion amongst taxpayers as to the proper assignment of responsibility for taxation. A major element of current reform in the property tax field in Ontario should be

the provision of clarity in accountability to property taxpayers.

(d) In the event of a devolution of assessment responsibility to the municipalities, it is reasonable to assume that the exercise of that response would in some way be constrained by the Government of Ontario. The province would continue to have an interest in the equitable treatment of its citizens and the quality of data used for determining provincial grants.

This interest would of necessity be far-reaching. By way of example, the 1967 Smith Committee recommendations would have permitted direct intervention by Ontario in the event of its dissatisfaction with particular municipal assessments, and even the setting aside and re-doing of the total assessment of a municipality in certain circumstances. (Recc. 11.7 and 11.9).

In this event, the cure may be worse than the disease in terms of the promotion of municipal responsibility.

(e) The prospect of a possible return of the assessment function to municipalities was spelled out by the then Minister of Municipal Affairs in a letter to municipal leaders dated August 8, 1969.

The Minister stated: **"Once the reassessment of real property has been completed by the Provincial Assessment Division, serious consideration will be given to the proposal of returning the assessment function to municipalities."**

While the reassessment has now been completed, there is as yet no consistent system for market value assessment in place in all of Ontario's municipalities.

While consideration of the return of the function does have merit, its optimum timing would appear to rest upon the existence of such a consistent system.

(f) A review of administrative matters consequent of a devolution has resulted in the following prospects:

- a major disruption of the existing 31 District Offices of the Ministry of Revenue;

- the loss of existing administrative economies of scale;

- staff uncertainty and family dislocation;

- the disaggregation of presently integrated computer systems, data bases and records; and,

- new negotiations for the allocation of provincial funding to compensate for the transfer.

(g) Finally, there remains a prospect that the devolution could result in a return to the form of pre-1970 practice by municipalities which resulted in the 1970 provincial takeover.

> Such a result would not be unexpected in the absence of rigorous contraints by the province: competition between municipalities for new revenue generating development attracted to favourable assessment levels remains a fact of Ontario life.

There is much to commend a consistent, equitable and evenly-applied system for assessment across Ontario.

Accordingly, it is recommended that consideration of the devolution of the assessment function from the province to its municipalities be deferred until such time as all municipalities in Ontario are operating under some form of a market value assessment program.

It is further recommended that the Government indicate its support, in principle, for the provision of a higher degree of municipal responsibility in the setting of variable mill rates, such increased responsibility to apply only to those municipalities having a reassessment program in place; and that an in-depth study of this provision be undertaken in 1986.

5. The Standard of Public Information

5.(a) The Distribution of Government Material

The success of any government program depends in large part on the degree of public support for it.

In matters relating to the assessment of property in Ontario, it appears that the prospect for wide public support has been hindered by a general lack of comprehension of this complex area of government.

In that event, the need to provide information to the public takes on a greater currency and urgency than would normally be the case.

Accordingly, it is appropriate that a demonstrable degree of openness in the provision of information now be undertaken. The objective must be an earned elimination of the guarded suspicion that appears to characterize public sentiment of government practice in this field.

Indicative, perhaps, of the need for re-thinking in this area are the recent remarks of a former Minister of Revenue contained in a letter to a citizen's group:

> **"The mandate of my Ministry is to serve the municipalities of the Province by providing**

> them with assessment rolls, supplementary rolls, tax tapes, impact studies, and assessment-related information.
>
> It is not my Ministry's policy to extend our mandate by providing this same information to individuals, ratepayer groups or others who may request it."

While the evolution of freedom of information legislation will be helpful in encouraging the availability of public information, it is insufficient in the assessment and taxation field.

The following proposals related to the distribution of government information and materials are recommended. Related proposals pertaining to other forms of information follow in subsequent subsections:

1. The Assessment Program Policy Manual sets out policy and program elements of assessment practice in Ontario. It is currently distributed to assessors, the Assessment Review Board, the Ontario Municipal Board, and the critics of the Opposition parties at Queen's Park. It is available to the public in each of the 31 regional field offices, and the Ministry of Revenue public reading room in Oshawa. Otherwise, it is available for purchase at the Ontario Government Bookstore in Toronto at a cost of $50.00.

It is recommended that the Manual and its updates now be distributed to all public libraries, and to all municipalities, at cost.

It is also recommended that public access to the Manual in the regional field offices, which is generally unknown to the public, be advertised.

2. It is recommended that the Ministry of Revenue undertake the public release of all market value impact studies undertaken by it, and that such release take place immediately upon completion of such studies.

3. It is recommended that a review be undertaken of the scope of pamphlet and brochure information on assessment and property tax matters, with a view to the production of literature for every program and service available to the public.

5.(b) Multi-lingual Services

Since all properties are different, the determination of assessment and property taxes is a highly individualized matter.

For those government services which have an individual impact and effect, it is critical that their delivery have a high degree of specificity and be responsive to individual needs.

Accordingly, attention has been given to the quality and extent of language service provided to Ontario's property taxpayers.

Initially, the Ministry of Revenue is to be commended for its adopted policy of providing public notice of the annual return of the assessment roll and related procedures in 110 multicultural newspapers in Ontario, as well as the major media.

Secondly, the Ministry has produced both English and French pamphlets entitled **"Renseignments Concernant L'avis D'Evaluation"** (Information on Notice of Assessment) for distribution in communities having bilingual characteristics.

In the furtherance of service to Franco-Ontarians, it is appropriate that a capacity for providing direct advice upon request now become fully available.

Accordingly, it is recommended that the Ministry of Revenue adopt as an administrative personnel policy the requirement that bilingual or French-Language assistance be available in each of the 31 Regional Offices which service communities in which the need for french language service is warranted.

It is also recommended that all Notices of Assessment now be produced in both of Canada's official languages.

Beyond these measures, it is also appropriate to expand the range of language services to meet other linguistic needs.

At present, there are no formal services in languages other than French and English available to property taxpayers. As it is difficult to determine needs across Ontario, it is advisable that, as a first step, special measures be taken in Metropolitan Toronto.

Three specific proposals are recommended.

First, it is recommended that a multi-language insert be produced for distribution with the Notice of Assessment in Metropolitan Toronto. The insert should indicate, in the variety of most frequently used languages, that information in the language of choice is available at a given phone number.

At a minimum, this information should be provided in French, Italian, Greek, Portuguese and Chinese.

Second, it is recommended that a second multi-language insert be produced for distribution with the Notice of Assessment in Metropolitan Toronto. This insert should advise of the "open houses" available to explain assessments, and draw attention to the procedure for appeal and the important appeal dates.

It is further recommended that the success of this expansion of services be reviewed within one year, and that a determination be made as to the merits of its implementation beyond Metropolitan Toronto.

Finally, it is recommended that the Attorney-General undertake to review and provide for interpretation services, as appropriate, in proceedings before the Assessment Review Board.

5.(c) Community Advisory Services

Targetted efforts of the Ministry of Revenue in expanding its outreach programs to serve its various property assessment clients over the past few years have met with success.

In concert with the proposals for the clarification and dissemination of public information contained in this Section, a full and helpful program of community service will be in place.

In particular, note is made of the following achievements:

* assessment advertisements in Ontario daily and weekly newspapers increased from 465 in 1978 to 1,251 in 1983, including 111 papers serving specific multicultural communities.

* during the period 1978-1983, 750,000 pamphlets explaining property assessment, mill rates and appeal rights were distributed.

* the holding of "open house" days to explain assessments to individual taxpayers increased from 104 days in 1978 to 12,050 days in 1983.

Consideration has been given a proposal to provide property taxpayers with a consultation service divorced from the

local assessor or the Regional Assessment Commissioner. It has been proposed that the taxpayer is at a disadvantage when seeking explanation or recourse from the individual assessor who determined the taxpayer's assessment in the first instance; and that a taxpayer seeking advice on the assessment effects of certain property improvements prior to making such improvements must, in seeking this advice, convey his or her intentions to the assessor responsible for discovering the improvements and assigning an assessed value to them.

It is evident that this proposal is based on a perception of the taxpayer-assessor relationship as adversarial in nature.

While it is understandable that different views on the fairness or accuracy of an assessment may be held by an assessor and a taxpayer, steps taken which promote adversity are not likely to be helpful in the resolution of disputes.

It is concluded that a proposal to provide a third party consultative service will weaken the link between the public servant and the public, and should not be pursued.

Resolution lies in increasing the degree of accountability of the assessor to the taxpayer, through measures such as the existing "open house" consultation process; the better and wider distribution of government information (Section

5.a); the expansion of multi-lingual services (Section 5.b); the sharing of assessor information at the Assessment Review Board (Section 5.e); and the annual report to municipal Councils of the Regional Assessment Commissioners (Section 5.f).

5.(d) The Notice of Assessment

The Notice of Assessment is produced by the Ministry of Revenue and distributed to selected taxpayers on an annual basis. It may inform them of the amount of their assessment; alterations in ownership, occupancy or tenancy; property description; tax classification; school support; and procedures for appeal.

In Section 3(c) herein, it is recommended that the Notice be returned to its former status as an annual statement distributed to all owners and tenants in Ontario.

Beyond that, separate attention has been given the Notice itself. This has been undertaken as a result of the widely held view that the Notice is very difficult for taxpayers to understand.

In fact, the Notice is a highly confusing document. While it can contain a substantial amount of information, its meaning is nonetheless unclear and must be dramatically revised if citizens are to comprehend its significance.

The following specific proposals are made for consideration as part of a complete re-design of the document.

First, as noted, the current Notice is sent only to taxpayers who have experienced some change in their assessment status. The Notice makes reference to the fact that a change has occurred, but does not specify the nature of the change. This clearly is an unsatisfactory situation.

Second, the Notice is frequently thought to be a tax bill, although no amount owing is indicated. While the words **"This is not a tax bill"** appear in parentheses on the Notice, there is insufficient explanation as to the relationship of the Notice to the municipal tax bill.

Third, there are references made to specific sections of the Assessment Act on the Notice, without explanation as to the meaning or purpose of those Sections.

Fourth, the assessed value of the land and buildings appears on each Notice, but there is no indication as to the change, if any, in the assessed value from the previous year(s). Accordingly, taxpayers have no immediate understanding as to the financial implications of the level of assessed value, and are left to fend for themselves.

Fifth, it is unclear that the Notice is in fact prepared and forwarded by the Province of Ontario. While a trillium and the word "Ontario" appear in very small print at the top corner, there is no other reference to the origins of the document. The number of assessment complaints directed at municipal officials demonstrates the need to provide for a higher level of accountability than is currently the case.

Accordingly, it is recommended that the Notice of Assessment be the subject of a thorough redesign, and that the specific matters referred to herein be resolved in any such redesign.

5.(e) Appellant Access to Information at the Assessment Review Board

A continuing theme that has arisen out of the consultative process has been the advantage provided to the government over the citizen in appeal proceedings.

Indeed, at the very basis of appeal procedure is the principle that an assessment once determined is correct and equitable unless proven otherwise.

In the maintenance of that principle, there is a clear obligation to provide an appellant with the most basic means by which a thoughtful case for appeal can be prepared and presented.

In remedying what is perceived to be a weighting of advantage to the government over the taxpayer, recommendations elsewhere in this report have been put forward: the requirement for written reasons by the Assessment Review Board; (S.3.(a)(ii)) the elimination of the annual reactivation of appeals; (S.3.(b)) the return of the annual Notice of Assessment; (S.3.(c)) the reversal of the "guilty until proven innocent" procedure on appeal; (S.3.(d)) and a variety of improvements to the standard of public information. (S.5).

Practice relating to an appeal involving "comparable" properties as determined by an assessor requires a similar remedy.

Currently, there is no consistent policy governing the ability of an appellant to review the characteristics of those properties that are to be used by an assessor, in defense of his or her assessment appeal before the Assessment Review Board.

While some assessors do provide the appellant with the addresses of the comparable properties and certain site details for each, others do not.

There have even been reported incidences of the production of different comparable properties at a Board hearing following deferral by the Board to permit consideration by the appellant of the comparables first identified.

In fact, and while open to interpretation, the Assessment Act may bar the sharing of such information to an appellant:

While Section 9.(2) of the Act requires owners and tenants to provide the assessor with information necessary to permit a proper assessment, Section 57 affords a degree of privacy to that information:

57. —(1) Every assessment commissioner or assessor or any person in the employ of a municipality who in the course of his duties acquires or has access to information furnished by any person under section 9 or 10 that relates in any way to the determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment and who wilfully discloses or permits to be disclosed any such information not required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, is guilty of an offence and on conviction is liable to a fine of not more than $200 or to imprisonment for a term of not more than six months, or to both.

(2) This section does not prevent disclosure of such information by any person when being examined as a witness in an assessment appeal or in an action

> **or other proceeding in a court or in an arbitration. R.S.O. 1980, c. 31.**

While it is clear that a need exists for privacy in the disclosure of personal, trade or business information, it is equally clear that the limited information from the assessment roll is insufficient to either mount an effective appeal or begin on a similar footing at a hearing with the assessor.

The need for providing more and better information to appellants has been previously recognized. The 1967 Smith Committee Report recommended that **"administrative officials, boards or commissions state fully and clearly in writing to the person involved the authority or basis of their actions, together with the reasons by which they justify their actions..." (Recc. 25.6)** This recommendation was adopted by the Select Committee of the Legislature reviewing the Smith Report.

Similarly, the 1977 Blair Commission Report noted:

> **"There is widespread dismay amongst the public in respect of the manner in which the assessment function is conducted. When a taxpayer seeks to obtain information on his asessment, he is faced**

> with a confusing maze of manuals, formulae and factors out of which he can make little or no sense.
>
> In addition, the degree of confidentiality required to protect the privacy of individual property owners is seen as a screen of secrecy devised to frustrate the possibility of an assessment appeal." (p. 18)

It is concluded that appellants should have a right to the provision of certain information respecting the "comparable" properties used to help determine the assessed value of an appellant's property.

It is also concluded that the information made available to appellants should not be of the sort that violates the personal, trade-related or business confidentiality of another.

Accordingly, it is recommended that, following the making of an appeal, an appellant, having requested such information in writing, should be entitled to receive from the Regional Assessment Commissioner the following data on each comparable property to be employed by the Commissioner:

- **municipal address;**
- **gross floor area;**
- **total land area and dimensions, by lot; and**
- **number of rooms.**

It is also recommended that such request in writing must be made within 10 days of the filing of an appeal with the Assessment Review Board, and that such information must be provided to the appellant no later than 5 working days prior to the hearing date.

It is further recommended that the Assessment Review Board adopt as procedural policy a refusal to commence a hearing on the evidence unless it is satisfied that a written request for such information to the Regional Assessment Commissioner has been properly satisfied.

Finally, it is recommended that the process outlined herein be contained in brochure material to be distributed with the annual Notice of Assessment.

5.(f) Regional Assessment Commissioners

The Commissioners assigned to the 31 District Offices of the Ministry of Revenue play an important leadership role in determining the standard of public information on property tax and assessment matters available to Ontario's communities.

In that both Provincial and municipal governments share in the determination and collection of property taxes, their level of communication is important.

As a means of enhancing this communication, it is advisable that there be some formality to the relationship beyond the informality that is currently characteristic.

Accordingly, it is recommended that legislation be enacted to require all Regional Assessment Commissioners to submit public annual reports to each of the municipalities under their jurisdiction upon the annual return of the assessment roll.

That report, which is for information and not subject to approval or otherwise by a municipality, should contain a complete summary of the actions taken by the Commissioner, including changes to the roll and policy and program decisions, in the previous twelve month period.

Such a procedure would increase the accountability of the Province to its municipalities, improve public understanding of assessment practice, and increase the opportunity for understanding between both levels of government.

6. The Treatment of Residential Improvements

6.(a) Good Maintenance and Repair

A continuing criticism of the property tax in Ontario is that it operates in a way which discourages owners from making improvements to their properties.

While instruments such as building by-laws, housing standard by-laws, and fire, health and safety legislation do exist to compel an owner to maintain a property at certain minimum standards, the case is made that increased taxation acts to penalize the maintenance that these instruments require.

Most frequently, the concern is expressed in relation to similar neighbouring residential properties: why should one neighbour, having contributed to the overall improvement of a neighbourhood, be penalized for such an improvement when a neighbour with unimproved property is not?

On the other hand, the case is put that the owner of an unimproved property should not be indirectly subsidizing a tax benefit to an owner whose improvements were undertaken voluntarily and whose property will ultimately recoup more value in the marketplace once sold.

Compounding the analysis of this question are the concerns that property tax exemptions for home improvements are not distributed according to need or an ability-to-pay; and, that the recouping of increased value by the sale of property which has been improved is similarly unrelated to the ability of a current owner to carry the existing costs of increased taxation.

The decision to provide for any exemption from increased assessment or taxation for improvement to a property rests in a balancing of public objectives.

On one hand, exemptions serve to narrow the tax base, which has the effect of increasing the tax load on the owners of taxable property. Further, an exemption is a form of an indirect subsidy, which is unevenly distributed in relation to need, and is less visible than a direct government subsidy.

On the other hand, there are desirable public objectives in the maintenance, repair and improvement of the building stock. Further, exemptions from taxation which improve building stock are ultimately recouped by the public in a variety of ways. including a stable or increased revenue base for municipalities.

Exemptions from increased taxation in relation to property improvement currently exist in Ontario, and in a variety of forms. The freedom from reassessment for improvements which add less than $5,000 in market value (formerly $2,500) has been in place in Ontario for 14 years. Exemptions also apply to improvements undertaken on behalf of the elderly and handicapped.

It is concluded that some form of relief should continue to be provided to the owners of property who undertake improvements to that property, whether undertaken during the time between general reassessments, or prior to the adoption of a reassessment program.

In reviewing the current and appropriate form that such relief should take, a distinction has been drawn between relief for those improvements simply intended to maintain a standard of repair and upkeep of a property, and relief for improvements of a larger order which have the effect of adding noticeably to the market value of a property.

The latter category of relief is dealt with in Section 6.(b).

Current assessment practice in Ontario in relation to improvements which are intended to repair or maintain an existing property is that they are not assessable. In other words, it has been the stated policy of the Ministry of Revenue not to increase the assessment of properties by reason of repairs and maintenance.

However, it has become evident that there is no consistent interpretation of the meaning of **"repair"** or **"maintenance"**. Further, deputations by former assessors have indicated that even the most rudimentary forms of maintenance have, on occasion, been the subject of a valuation for assessment.

It is concluded that there is a need for greater certainty on behalf of the assessors and the public in the application of this principle.

To that end, research into the preparation of categories of improvement to be free from assessment has been undertaken.

It is concluded that improvements which are intended to produce a good standard of repair and maintenance should not be subject to a valuation for assessment nor should they result in increased taxes, provided that such improvements are to an existing building, and fall within one of the following categories:

(i) Decorative and Cosmetic Changes

These changes constitute simple repair and maintenance and are not likely to add to an increase in market value. They include: fences, landscaping, painting, decoration, wheel chair ramps, replacement floor coverings, built-in vacuuming, paved or improved driveways, brick cleaning, brick pointing, plumbing and lighting fixtures, signage and numbering.

(ii) The Replacement of Plumbing, Heating and Electrical Service

These are essential support systems to habitation, and their replacement and upgrading should be free from valuation for assessment. They include: new

piping, wiring, furnace, heat pump, air conditioning, and fireplaces.

It is important to stress that these improvements should be exempt only to the extent that they replace existing services in an existing building. Improvements which require wiring or piping to service a new facility should be subject to valuation for assessment.

The exemption should apply regardless of the standard of materials or technology used.

(iii) The Restoration of Heritage Property

It is concluded that special attention should be afforded the repair of historical property, in pursuit of this desirable objective.

> Beyond the relief already outlined, further exemption for the special decorative or architectural improvement necessary to restore a heritage building to its original or period characteristics should be provided. Such a provision should be limited to lands or buildings designated pursuant to the Ontario Heritage Act.

> Accordingly, it is recommended that the Assessment Act be amended to provide that improvements to any existing residential property be exempt from valuation for assessment provided that such improvements are decorative, cosmetic, related to the replacement of existing heating, plumbing or electrical services, or related to the decorative restoration of lands or buildings designated under the Ontario Heritage Act.

Consideration has been given to three related matters.

First, there is a possibility that a prospective purchaser of a new home may request the builder to not complete certain improvements to the home, in the knowledge that their later completion by the purchaser - constituting improvements to an existing building - would free it from increased taxation.

It is recommended that this prospect, although unlikely, be overcome by the provision to the Regional Assessment Commissioner of a discretion to forbid such exemptions on the basis of the intentions of the purchaser or seller.

Second, there is a question as to whether a complete "gut" renovation of a home should be eligible for the relief outlined, or whether the total value of all improvements should be captured when a house is completely rebuilt.

It is concluded that the definition of a complete rebuilding as distinct from partial or sequential improvements is not desirable, and that relief should continue to be provided regardless of the extent of the rebuilding, provided that, in the opinion of the Regional Assessment Commissioner, an entire new home is not being constructed. In that event, no relief should be provided.

Third, consideration has been given to the extent of such relief across classes of property.

It is recommended that such relief apply to all classes of residential property regardless of their status as owner-occupied. This would include relief to the absentee owners of rental property, in recognition of the need to promote a good standard of maintenance of the rental housing stock.

Finally, it is recommended that a list of exempted improvements, based on the proposals herein, be included in the Assessment Program Policy Manual, which is elsewhere recommended for wide public distribution. (Section 5.(a).)

6.(b) Options for Relief from Increased Taxation

As indicated in Section 6.(a), a distinction has been drawn between relief for the owners of residential property who undertake improvements intended to simply maintain and repair a home, and relief for owners whose improvements add significantly to the market value of a property.

The operative provision for this latter category of improvements is Section 63(2) of the Assessment Act.

As originally established in July, 1971, it provided the first relief for improvements to any class of property which added less than $2,500 worth of market value to the property.

While it was announced as a temporary measure pending the completion of the market value assessment of all property in Ontario, it has remained a permanent feature of Ontario life for 14 years. Further, its maximum limit of relief was doubled to $5,000 in 1984.

In 1984, this relief affected 78,000 properties in Ontario having a market value of $156,000,000.

The Section reads:

> **Where the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof increases the value of any real property in a municipality or locality by at least $5,000, and where such increase in value has not been, or is not liable to be, assessed pursuant to section 33, such increase in value shall be assessed and included in the assessment roll to be returned in the municipality or locality next after such increase comes to the attention of, and the amount thereof has been determined by, the assessment commissioner. R.S.O. 1980, c. 31, s. 63(2); 1984, c.28, s.5.**

In response to municipal requests and a February, 1981, decision of the Municipal Advisory Committee on Assessment Data Supplies and Services, the Ministry of Revenue increased its attempts to assess improvements pursuant to this Section of the Assessment Act. The objectives were to generate municipal revenues and increase the overall level of equity amongst assessments in municipalities without a Section 63 reassessment program.

Reassessments based on renovations during the period 1981-1984 numbered 216,569. Some 9,300 of these took place within Metropolitan Toronto outside of the City of Toronto; and some 13,269 took place within the City.

As a consequence of the great variety and conviction of public responses to that decision, and in recognition of the high level of appeals that followed in some locations, and recent rulings, a review of alternate models for continued relief from taxation for property improvement has been undertaken.

(i) The Gross Floor Area Model

Review has been undertaken of a proposal to free all improvements from increased assessment except where such improvements increase the liveable floor area of the building.

This proposal has been rejected. In the event that a building is totally renovated to a high market value without an increase in floor area, (or even with a decrease in floor area) a serious inequity would result in maintaining the same rate of assessment and taxation of that property with a similar, neighbouring, unimproved property. There is no allowance in such

a proposal to capture what may be a dramatic increase in market value.

(ii) The Date Of Sale Model

Review has been undertaken of a proposal to free all improvements from increased assessment except where the improved property is sold to a purchaser, who would then be reassessed and assume a higher level of taxation.

This proposal has also been rejected. While the date of sale model does have merit, serious inequities would result in the assessment and taxation of neighbouring properties when the owner of dramatically improved property chose to reside in the property for an extended period of time.

Again, there is no allowance in this proposal to capture increases in market value which may last a lifetime.

(iii) The Listing of Improvements Model

Consideration has been given to the application of a feature of the retail sales tax to the

property tax. That is, the precise listing of improvements that would be either subject or not subject to assessment and taxation.

This proposal has been rejected. While there is much to commend the clarity that would result, the proposal would move away from the principle of the calculation of taxation based on the market value of improvements. Further, such a list would require constant interpretation in response to individual circumstances and changing building techniques and preferences.

(iv) The Local Taxation Model

This proposal would involve the full assessment of all improvements and the subsequent provision of tax relief by the municipality.

This proposal has been rejected. While the degree of local responsibility is a very desirable feature, and is currently contained in an unemployed 1971 provision

of the City of Toronto Act as it applies to residential property, (Chapter 130) it would require a necessary degree of provincial constraint in order to guarantee fairness in its application. That constraint would serve to retard the development of meaningful municipal autonomy.

(v) The Structural Model

Review has been given a proposal to undertake an increase in assessment for improvements which are related to changes to load bearing walls, the number of rooms and similar structural criteria.

This proposal has also been rejected. It has a poor relationship to the added market value of improvements, and entails an undesirable degree of complexity in the discovery by an assessor of the nature of work already completed.

(vi) The Local Exemption Model

Wide consultation has taken place on a proposal to remove from Section 63(2) of

the Assessment Act the province-wide $5,000 market value limit on improvements free from assessment, and to permit municipal determination of such a limit.

It is noted that the benefits to individuals that flow from this unilateral figure are uneven, in that $5,000 in market value in one city is not the same as a similar amount in another.

It is also evident that different views are now held as to the merits of the current $5,000 limit: municipalities in need of revenue have requested that it be lowered, while others have proposed that it be raised.

This proposal also provides a meaningful form of municipal autonomy, the exercise of which need not be constrained by the Province. The establishment of a limit by each municipality would permit a balance to be determined between increased revenues on one hand and an increased level of exemption for improvement on the other. The result would reflect local preferences

> rather than provincial preferences, and it could be amended on an annual basis according to local financial circumstances.

Accordingly, it is recommended that Section 63(2) of the Assessment Act be amended to delete the figure $5,000, and to permit each municipality, by resolution, to establish its own annual limit of market value improvements, below which no such improvement shall be assessed.

A number of further decisions are required as a result of this proposal.

First, area municipalities within regions and counties may choose to establish a high exemption limit, in order to reduce overall assessment and, therefore, the amount of the apportionment of shared regional or county costs. In the alternative, they may find themselves forced to raise their limit in response to a high limit being set by another municipality within the region or county for the same purpose.

One remedy to this situation is to establish a range within which the exemption limit may fall. However, it would be preferable to simply discount the effect

of this exemption in the calculation of local municipal contributions to a region or county.

Second, it has been proposed that, in the case of a region or county which has adopted a full market value assessment program, there should be no variation in the exemption limit amongst the area municipalities within the region or county.

This is a reasonable suggestion, which would have the effect of maintaining the region or county-wide consistency that a market value assessment program provides. Accordingly, it is recommended.

Third, deputations have been made which urge that the current $5,000 limit not serve to constrain municipalities which choose to reduce the level of that current benefit.

However, such a measure would result in the loss of benefits now enjoyed by Ontario's property owners.

Accordingly, it is recommended that no exemption limit be less than $5,000, unless specifically authorized by the Executive Council of Ontario.

Fourth, the current exemption limit applies to all classes of property in a municipality.

It is recommended that this provision be maintained and that municipalities be further empowered to set annual exemption limits for different classes of property.

In this fashion, the exemption may be used to direct tax policy towards the achievement of particular municipal goals.

By the same token, however, fairness dictates that different exemption limits for individuals or geographical areas within a municipality not be applied within a single property class.

Fifth, consideration has been given to the actual amount of the market value of improvements to be subject to assessment once the exemption limit has been reached.

It is recommended that, in the event that the market value of improvements exceeds the exemption limit as determined by the municipality, only the value of improvements in excess of the exemption limit, and not the total value of improvements undertaken, be

the subject of increased assessment.

The exemption is intended to provide relief from taxation, and the amount so exempted should not be subject to an increase in assessment for taxation.

Sixth, the matter of cumulative improvements has been reviewed. In the event that improvements are made in two or more successive years which fall below the exemption limit in each individual year, but exceed the limit in their total, the amount of added market value should be cumulative for calculation purposes, and the amount in excess of the exemption limit should be subject to an increase in assessment whenever it is reached.

Seventh, consideration has been given to the transfer of benefits between existing and subsequent owners of a property.

While the exemption carries the benefit of promoting the improvement of the stock of buildings in Ontario, it acts primarily as an incentive to individual owners. Since no new owner, who may have different needs than a previous owner, should be denied the benefits of exemption by reason of the improvements undertaken by a previous owner, it is recommended

that the exemption limit carry with the owner of the property, and that successive owners be entitled to a new exemption upon their ownership.

Eighth, consideration has been given the application of the exemption to a major "gut" or rebuilding of a property. Consistent with the basic "repair and maintenance" exemptions provided to major rebuildings as set out in Section 6.(a), it is recommended that the exemption apply to a major rebuilding, provided that the Regional Assessment Commissioner is satisfied that an entire new building is not being constructed. In that event, the exemptions for improvements should not apply.

As a final matter, and given the adoption of this proposal by the Government, it is recommended that the special tax relief for home improvement contained in Chapter 130, Section 1 of the City of Toronto Act, be repealed.

6.(c) The Ontario Municipal Board Decision - 48 Russell Street, Toronto

On June 26, 1985, the Ontario Municipal Board delivered a decision relating to the assessment of home improvements at No. 48 Russell Street in Toronto.

On July 10th, the Minister of Revenue announced his decision to seek leave to appeal this decision pending a review of its broader implications.

By way of background, the owner-occupiers of this semi-detached, two-storey house undertook a variety of improvements over time. As a result of inspection, the Ministry assessor increased the assessment from $2,712 to $5,980. (Toronto does not have a market value assessment program in place, and some values are based on a 1940 base year). At the Assessment Review Board, the assessor proposed a settlement assessment of $4,880. In evidence at the Board, the assessor indicated a proper assessment to be $3,770.

In its decision of June 26, 1985, the Ontario Municipal Board challenged and ruled upon the manner in which the calculation of assessment was undertaken. Its decision, while

at odds with a number of earlier O.M.B. decisions, is of fundamental importance to the taxation of improvements to residential properties and, in fact, to all classes of property.

A thorough review of this decision has been undertaken, and has had the benefit of advice from a number of legal counsel.

The key issues raised in the decision are dealt with separately, as follows:

(i) Maintenance and Repair

The Board considered the meaning of the words **"erection, alteration, enlargement or improvement"** in Section 63(2) of the Assessment Act, in attempting to determine whether certain improvements fall within the meaning of those words. Alternatively, the improvements might constitute only items of maintenance and repair, and, thereby, be freed from valuation for assessment and taxation.

In the circumstances, the Board ruled that the replacement of a furnace was a repair, and, therefore, not assessable, while the replacement of windows was an improvement, and, therefore, assessable.

This matter has been fully reviewed in Section 6.(a), herein, and it has been recommended that specific categories of improvements, as set out, be freed from valuation for assessment.

(ii) Cumulative Improvements

The Board reviewed the provision of Section 63(2) of the Assessment Act which permits an increase in assessment for improvements having a market value in excess of $5,000 to be **"assessed and included in the assessment roll to be returned to the municipality or locality next after such increase comes to the attention of, and the amount, thereof, has been determined by, the assessment commissioner."**

In the circumstances, the Board ruled that the assessor could not add the value of certain improvements to the roll unless they were added at the time that such improvements were completed and known to him.

Reference is made to a similar Ontario Municipal Board decision dated June 21, 1985, and pertaining to Canadian National Railway lands: (O.M.B. file A 8500123)

"Error or not, in missing it, it is the Board's view of Section 63(2) that the increase and the assessment must be determined at the time it comes to the attention of and has been determined by, the Assessment Commissioner..."

Having reviewed this matter, there is agreement that the lack of timeliness on the part of an assessor should not, as a matter of policy, provide a perpetual tax holiday to an owner of improved property and forever close the option of capturing for taxation the value of the improvements made.

Accordingly, it is recommended that an appeal against the O.M.B. decision on this ground not be proceeded with, and that Section 63(2) of the Assessment Act be amended to permit the cumulative calculation of improvements to a property, regardless of their timing or their discovery by the Regional Assessment Commissioner.

A related proposal to amend the current $5,000 exemption provision, including cumulative improvements for the calculation of assessment, is set out in Section 6.(b)(vi).

(iii) Calculating the Value of Improvements

In 1970, the assessment rolls in Ontario were "frozen," pending the anticipated introduction of market value assessment province-wide.

On the basis of a July, 1981, decision, concerted attempts were made by the Ministry to capture increases in assessments as a result of improvements.

On its merits, this was a reasonable decision. It had been supported by municipal representatives as a means of raising local revenues and reducing inequities between properties. The failure to reassess those with substantial improvements simply has the effect of transferring the burden of taxation onto those without improvements. Further, there has been no deputation to this point which argues that major renovations should not be captured for taxation in some fashion.

However, the decision resulted in varying degrees of impact. In municipalities with a reassessment program in place, the impact was small due to the relatively up-to-date market values in place and the minor increases that resulted from the reassessment of improvements. In municipalities without a reassessment program such as Toronto, the impact was, in some cases, of enormous proportions. In these cases, the reassessment to current values resulted in very large increases when measured against existing assessments dating back to the 1940's.

While the negative public reaction to these latter assessment and tax increases was fully understandable, so was the positioning of others who saw no fairness in 1940-based assessments and taxes being maintained for those with an ability to pay a fair share of municipal costs; nor no fairness in defending a municipality whose problems lay in a failure to adopt a market value solution to the outstanding inequities that did then, and still do, exist.

At the root of this issue, and at the heart of the O.M.B. decision, is the matter of the actual calculation of increased assessment, and the consequences of it.

The Ministry of Revenue argued that, in the process of reassessing properties which had undertaken improvements beyond the $5,000 (then $2,500) market value exemption limit, the entire property, and not just the improvements, should bear a new assessment at current rates.

The authority was said to lie in those sections of the Assessment Act:

(i) permitting the assessor to alter the value of an assessment if it is inequitable in relation to the assessment of similar real property in the vicinity and to make it equitable; (Section 63(1)); and,

(ii) the section requiring courts and tribunals to test the equity of an assessment by comparing it to the assessments of similar property in the vicinity. (Section 65(1).)

The City of Toronto took the position that since it had the authority to request that a program for market value assessment be put into effect and had not successfully done so, it was improper to calculate and assign current market values on individual properties.

Some concession to this position took place in

the form of Bill 60, The City of Toronto Assessment Complaints Act, which deemed all ratepayers who had experienced an increase in their 1981 assessments, but had not appealed, to have done so.

The position of many taxpayers was both simple and compelling. Since a "freeze" existed on their assessments, only the value of their improvements should be reassessed. Further, since they had not been party to a community decision to have a market value program finally proclaimed and put in place, why should some citizens be assessed at current market values while others were not? The path to market value, it was argued, lay in a proposal that would affect all citizens, and not just some.

The Ontario Municipal Board ruled in favour of the appellants. It decided that the Ministry could not act to correct inequities pursuant to Section 63(1) without having first captured the value of improvements pursuant to Section 63(2). Only in the event of the introduction

of a market value program or in a general reassessment following such program could the valuation of improvements lead to the reassessment of the total property.

After careful review, it has been concluded that this interpretation by the Ontario Municipal Board should be upheld and have the force of law.

The salient reasons are as follows:

. While the introduction of market value assessment program in Toronto or Metropolitan Toronto is desirable, the local determination to proceed must be respected. In the absence of provincial legislation to compell it, it should not be imposed provincially in an indirect way, nor on a property by property basis.

. Current assessments in Ontario have been "frozen" since 1970, pending the introduction of a full market value assessment program. Witness to the strength of the freeze is the intention of the Government to continue the freeze again this year.

It is entirely reasonable that, until such freeze is debated and lifted in a public way, only the value of new improvements should be reassessed, and not the original frozen assessment of the property.

. The Board's decision gave emphasis not only to the need to provide equity in the assessment of similar properties, but in the method by which assessments are determined.

While the Ministry argued that the assessment at 48 Russell Street was equitable in relation to similar properties, it is difficult to comprehend how the assessor could proceed to reduce the assessed value on two separate occasions, having first determined an equitable assessment.

> The method of determining the assessment in this case is clearly open to review and revision.

Accordingly, it is recommended that the leave to appeal sought by the Ministry of Revenue in relation to the Ontario Municipal Board decision of June 26, 1985 re: 48 Russell Street not be proceeded with.

It is also recommended that the Assessment Act be amended to require that unless in the event of the introduction or update of a reassessment program, a reassessment undertaken pursuant to Section 63(2) intended to assess improvements to a property shall result in the assessed value being related to the value of the improvements only, and then added to the existing assessed value of the property. This provision should apply to all classes of property, and in areas with or without reassessment programs.

As has been recommended in Section 6.(b)(vi), the exemption provided for in Section 63(2), as locally determined, should be calculated cumulatively, should apply newly to each successive owner, and should be overcome in favour of a current market value for the entire property upon the introduction or update of a reassessment program.

Two final points are noted.

First, it is acknowledged that these recommendations may be seen to be moving away from the promotion of the principle of market value. However, it is concluded that the necessary steps toward market value must first have a basis in individual fairness before collective steps are made toward the adoption of a market value-based program.

Second, it remains that the difficulties experienced in Toronto would largely be remedied given the existence of a program for reassessment. A first proposal to bring that about is set out in Section 7.(e).

(iv) The Retroactive Effects

Given the recommendations in 6.(c)(iii), attention has been focussed on the treatment of taxpayers who may now seek a remedy similar to that sanctioned in the case of 48 Russell Street, Toronto.

It is concluded that a roll-back of increased assessments in Ontario would cause a significant strain on municipal revenues, and that this course should not be pursued.

It is also concluded that appellants who feel that a remedy for previous practice is due them, may seek a decision for relief at the Assessment Review Board upon receipt of a future Notice of Assessment.

7. Ontario Reassessment Programs

7.(a) Overview

There is general agreement that a consistent, equitable and understandable program for assessment and reassessment for all lands represents a desirable end state for Ontario.

There is also general agreement that the travelled path to this end state has been strewn with roadblocks of uncertainty and indecision.

The need for an equitable base for assessment - in terms of the fair distribution of provincial transfers to Ontario's municipalities and school boards - is paramount. In 1985, an estimated $6,223,800 in these transfer payments will occur, and 46.1% of these transfers will be based on the measure of assessment.

Following the assumption of assessment by the province in 1970, two objectives for assessment reform were announced.

The first involved the consolidation of municipal assessment operations into 31 Regional Assessment offices, and this has been completed.

The second was the reassessment of all property in Ontario at full market value.

Accordingly, Bill 127 was introduced in July 1971. It set out a timetable for the reassessment of all property in 1974 for taxation in 1975. At the time, all existing assessments were frozen at current levels; regional, county and school board apportionments were frozen at 1969 levels; and an exemption from assessment for improvements having a market value of less than $2,500 was established.

In October 1973, this proposal for market value assessment was delayed. The then Minister argued that more time was needed to study the impact, and that a rapid escalation of land values had made it impossible to establish accurate values.

At the same time, the Government set a new date for market value assessment: all properties would be assessed in 1976 for taxation in 1977. In the interim, full market value assessments were to be produced in Grey County and the District of Muskoka.

In 1976, this proposal for market value assessment was delayed again. The Government, in the 1976 Budget, set out proposals for tax reform and established the Commission on the Reform of Property Taxation in Ontario (Blair). Market

value assessment was now to be prepared for taxation in 1978.

In June 1978, this proposal for market value assessment was delayed again.

While Blair had reported in March 1977, the Treasurer announced another series of reform proposals in January 1978, and these were reviewed by an intergovernmental committee and reported on in April 1978.

However, the Treasurer announced an indefinite delay in June. It was based on a lack of consensus amongst municipalities and a concern over the effect that the estimated $400 million cost would have on the Ontario budget.

During the period 1970 to 1978, the creation of regional governments and municipal amalgamations had the effect of further exacerbating inequalities already frozen, both amongst and within constituent municipalities.

In response, the Minister announced in August 1978 that Section 63 of the Assessment Act would be used to correct inequities among the merged municipalities of the City of Cambridge, and to other municipalities requesting it. At the same time, equalization factors were "unfrozen" and new factors were produced for use in 1979.

This was a significant departure from previous objectives. Market value assessment Ontario-wide was not being pursued. The initiative for reform now lay in municipal hands. Proposals for wider tax reform were abandoned.

In effect, assessment reform was now intended to eliminate inequities within property classes only, and tax shifts between classes were avoided.

In November 1979, the Assessment Act was amended to confirm this limited form of reassessment. Progress to date on the implementation of such Section 63 reassessments has been impressive:

SECTION 63 REASSESSMENTS 1979-1985

(i) **First Time Reassessments**

◦ 1979-84	449	by S.63
	143	by proclamation
◦ 1985-86	25	by S.63 (including Mississauga)
	617	

(ii)

Second Time Reassessments (Section 63)		**Second Time Reassessments (Proclamations)**	
◦ 1979-84	43	◦ 1979-84	35
◦ 1985-86	33	◦ 1985-86	0
	76		**35**

(iii) **Advance Orders to Date**

◦ 1986-87	6	possible 1st timers
	27	possible 2nd timers
	33	excluding possible Regional and County S.63s

With the scheduled 1985-86 programs, 72% of all 855 local municipalities and school boards will have been reassessed. By 1987, virtually all major urban centres will have been reassessed.

Eight regional municipalities and counties have also requested impact studies for a consolidated region or county-wide Section 63 reassessment, as follows:

REQUESTS FOR REGIONAL & COUNTY LEVEL S.63 IMPACT STUDIES

	Local S.63s Completed
(i) Requests from Regions	
∘ Waterloo	All (7)
∘ Haldimand Norfolk	All (6)
∘ Ottawa Carleton	All (11)
∘ Sudbury	None (7)
(ii) Requests from Counties	
∘ Huron	All (26)
∘ Perth	All (16)
∘ Perterborough	17 of 19
∘ Brant	(After 1985)

The notable exception to this list is Metropolitan Toronto.

7.(b) Municipal Reassessment Options

Presently, municipalities in Ontario have three reassessment options open to them.

1. Do Nothing

This course is unacceptable. Its effect is merely to maintain existing inequities. Further, it may, by design, provide one municipality having relatively low assessed values with a comparative advantage in the attraction of new investment, at the expense of another municipality.

In 1982, the Association of Municipalities of Ontario recommended that, at a minimum, all municipalities in Ontario should be required to undertake a Section 63 reassessment in order to introduce some equity into their assessments.

While such a mandatory approach is not judged to be necessary given the 72% success rate in introducing reassessment programs to date, it is recommended that the Government actively promote and support the adoption by municipalities of either a partial (Section 63) or full (Section 70) reassessment program.

2. Adopt a Section 63 Reassessment

Progress toward the adoption of this "within-property class" approach has been steady and successful.

At present, some 617 local municipalities have pursued this course, while 238 have not.

The key features of the S.63 program are:

- A complete review of the potential impact of reassessment by municipal councils prior to its implementation. (This is unique in North America.)

- Implementation only on municipal request.

- Total assessments in each property class are reassessed at market values prevailing in a selected "base year". The new assessments are then "factored back" to produce the previous totals of taxable assessment for each class and all classes combined, in order to:

  * eliminate inequities among properties within each property class;

* avoid tax shifts between property classes;

* avoid "windfall" revenue increases to municipalities and school boards;

* avoid changes in the apportionment of Regional/County and school board costs among constituent municipalities;

* avoid changes in provincial grants to local governments and school boards.

It is concluded that this program has merit and will assist in bringing a degree of equity to the assessment of properties within property classes. Further, losses of municipal revenue through appeals decreases in Section 63 municipalities: during the period 1981-1983, losses were reduced by 28% in these municipalities.

It is recommended that the Government adopt a policy of the active promotion of Section 63 reassessment in those municipalities without benefit of a reassessment program, except for those municipalities who select a full market value (Section 70) option.

At the current rate of implementation, all Ontario municipalities could achieve a Section 63 program within three years.

Accordingly, it is recommended that the Government set as a goal the establishment of Section 63 reassessments (unless otherwise replaced by Section 70 reassessments) in all of Ontario's municipalities, regions and counties by the end of 1988.

It is further recommended that, in the event that such goal is not met, the Government undertake to make mandatory the establishment of a Section 63 reassessment program in all municipalities, regions and counties.

It is further recommended that, following the completion of this program, all assessment programs in Ontario be based on a common base year for general reassessment purposes.

3. Adopt a Section 70 Reassessment (Market Value)

In its simplest terms, this form of reassessment involves the determination of a current market value for each property on the basis of what a willing buyer would pay to a willing seller in an open market. Taxes are then determined by the application of municipal mill rates to a percentage of that value.

The use of market value as a means of determining property assessment has as its historical basis a 1951 decision by the Judicial Committee of the Privy Council, on

appeal of a decision of the Superior Court. (The City of Montreal vs. Sun Life Assurance Company of Canada, (1951) Judicial Committee of the Privy Council, 2 D.L.R. 81, (1952)).

The concept in Ontario was first legislated in a 1968 amendment to the Assessment Act, and is currently incorporated as Section 18(2).

The use of market value assessment in Ontario has been consistently recommended by Government-sponsored committees and task forces.

It is supported by the Association of Municipalities of Ontario.

However, in respect for those deputants who proposed the adoption of an alternate basis for assessment, consideration has been given to three alternatives:

(i) **Site Value Assessment**

This option taxes land only, and was actually employed in Ontario for a short period during the early 1920s.

While a useful presentation was made in favour of this option, it is concluded that relative tax

burdens would be reduced for those with higher density buildings, and that the resulting tax burdens would be difficult to justify.

It is also concluded that it would encourage the maximum development of all lands, which could serve to counteract the urban planning objectives of municipalities.

(ii) **Benefit Assessment**

This option would base assessed value on the calculation of benefits to individual properties of services used and proximity to public benefits.

While this option is rational, the practical difficulties in defining specific benefits appear onerous.

(iii) **Service-Based Assessment**

This option employs a point-rating scale based on all municipal services delivered to the property. Further, they would be based on some measure of the quality of service.

There are similar problems in this case to the Benefit formula, and there are serious

difficulties in measuring fire protection, for example, under this option.

Accordingly, these alternatives are not recommended as an alternative to market value as a basis for assessment.

It is concluded that a province-wide program of market value assessment represents an optimum solution to the existing inequities of assessed value in Ontario.

It is also concluded that, in the light of the proposed application of Section 63 reassessments to all municipalities which do not adopt a Section 70 reassesssment by 1988, market value programs should not be mandatory for municipalities, but should remain at their discretion until the completion of the review of the progress of Section 63 reassessment programs by year-end 1988.

Accordingly, it is recommended that Section 70 (market value) reassessments continue as a locally-based option for municipalities, regions and counties, and that, where requested, provincial support and assistance be provided in their implementation.

It is further recommended, upon completion of the establishment of Section 63 reassessments in all of Ontario's municipalities, as proposed herein, that the Government proceed to promote or require, as appropriate, the implementation of market value based reassessments for all land in Ontario.

7.(c) Mandatory General Reassessments

Once a reassessment has been implemented, it is important that the values as reassessed be maintained in a current fashion.

Following World War II, provision was made in Ontario for a two or three-year rotating updating of assessments, in which one-half or one-third of the municipality was reassessed each year.

Currently, attempts are made by the Ministry of Revenue to update reassessments upon municipal request. However, there is no uniformity in the undertaking of such updating. In fact, by 1985-86, only 31% of the first wave of Section 63 reassessments first undertaken in 1979-81 will have been updated.

It is clear that a consistent practice of general reassessment will help reduce inequities within or between property classes as market values shift. This, in turn, assists in the confidence attached to equalization factors, provincial grants, and public acceptance of the program.

The appropriate timing of general reassessments has been reviewed. Canadian practice in this regard is inconsistent, ranging from a seven-year rule in Manitoba to a maximum

five-year rule proposed in New Brunswick and Saskatchewan. At its annual conference in 1984, the Association of Municipalities of Ontario proposed a four-year rule.

Accordingly, it is recommended that the Assessment Act be amended to require that, where a reassessment program is in place, such program shall be subject to a mandatory general reassessment at periods no longer than once every four years.

It is also recommended that the current requirement for municipal resolution requesting such general reassessment be eliminated.

7.(d) Regional and County Reassessment

Currently, no legislative authority exists to permit the adoption of a region or county-based reassessment, undertaken as a Section 63 reassessment program.

Section 63(3) of the Assessment Act permits the Minister to put such a program in place upon the request of a municipality. However, Section 1(p) of the Act defines a "municipality" to the exclusion of regions and counties, whose legislative authority is largely defined in separate regional Acts.

It has been suggested that this omission be overcome in order to achieve the clearly desirable objective of establishing Section 63 reassessments at the regional and county level. It is understood that, in so doing, area municipalities within regions and counties would lose their current exclusive jurisdiction in this matter.

It is concluded that the introduction of regional and county reassessments is a highly desirable objective. Furthermore, recommendations in Section 7.(b) will have the effect of promoting and, if necessary, requiring the implemenation of such programs within regions and counties.

However, serious obstacles present themselves to the recommendation of legislation affecting all regions and counties.

First, the adoption of a regional program where some, but fewer than all, of the area municipalities have such a program in place would cause confusion and might serve to inhibit region-wide agreement on a regional program.

Second, the establishment of a regional program would necessitate the creation of a formula for local acceptance and implementation which could be insensitive to local conditions. At its simplest level, approval by Regional Council might suffice. However, this formula moves too radically from a desirable balance of regional and local responsibility, and is unacceptable.

Alternatively, a formula based on the majority support of local councils could be unacceptably insensitive to the needs of a single municipality having significantly different characteristics than the others.

A formula based on the support of a majority of the population could provide too large an advantage to populous municipalities within a region.

Accordingly, it is recommended that legislation to permit region and county reassessment under Sectionn 63(3) of the

Assessment Act generally not be introduced, but that the specific formula for adoption be the subject of region and county determination and individual legislation.

It is also recommended that, in the course of the promotion by the Government of Section 63 reassessment programs, specific efforts be made to encourage and facilitate the adoption of regional and county formulae for regional and county reassessments.

7.(e) Metropolitan Toronto

Metropolitan Toronto is by far the largest and most significant municipality which has yet to begin to remedy inequities in its assessment base.

Its failure to adopt either a Section 63 or Section 70 reassessment program constitutes a major deficit in Ontario's attempt to bring about an equitable province-wide basis for assessment. So, too, would its inclusion provide a major impetus to the advancement of the reassessment program in Ontario now underway.

It is unneccessary to provide lengthy analysis of or detail into the inequities in assessment in Metropolitan Toronto. It will suffice to repeat that properties of similar market value in a similar class bear different rates of assessment and taxation; that the base years for determining assessments are uneven; that the burden of taxation on taxpayers is not borne equitably; that insufficient attempts have been made at Metropolitan Council since 1953 to remedy these inequities; and that even minor efforts to provide equity have met with internal disagreement.

It is acknowledged that Metropolitan Toronto requested the production of studies on the impact of a Section 63 Metropolitan Toronto-wide reassessment on two occasions in 1982. These studies - detailing the effects of both a regional and

local municipality-based reassessment - were released on July 5, 1985. They are based on 1980 market values.

It is also acknowledged that, on September 20, 1985, Metropolitan Toronto Council established an Advisory Task Force on Assessment Reform, at the request of the Metropolitan Toronto Chairman. The terms of reference for this Task Force are:

(i) a detailed review of the Ministry of Revenue's data and results; and

(ii) discussion, review and testing of alternative implementation methods to cushion year-to-year fluctuations.

These initiatives are useful and to be commended. By the same token, there is yet no determination to proceed to a reassessment. It is concluded that steps must now be taken to bring a reassessment about.

Having reviewed this matter carefully, it is concluded that neither a Section 63 nor Section 70 (market value) reassessment should be unilaterally imposed upon Metropolitan Toronto. Such a decision is offensive to the promotion of municipal autonomy and responsibility, and would likely result in a degree of dissatisfaction with both process and content that would bring harm to the evolution of meaningful

progress in assessment and taxation equity.

Rather, an alternate route has been selected.

Consultations have been carried out with each of the Mayors within Metropolitan Toronto and with the Chairman of Metropolitan Toronto. As a result, unanimous agreement has now been reached on a means to consider how the implementation of a program for reassessment should proceed. It is not the intent to review the merits or advisability of adopting a reassessment program, but to determine how this result should be achieved, and what form it should take.

It is agreed that no advance determination has been made as to the creation of a regional program or a series of locally-based programs. Similarly, the option of both a Section 63 program and a Section 70 (market value) program remain open.

Accordingly, it is recommended, in view of the agreement now reached with the Mayors and Chairman of Metropolitan Toronto, that a Metropolitan Toronto Reassessment Task Force be struck, to be comprised of two representatives to be selected by each of the seven municipalities, the Metropolitan Toronto School Board and the Metropolitan Separate School Board, and representatives of the Ministries of Revenue and Municipal Affairs.

It is recommended that, in the event that new Mayors or a new Chairman assume office in 1985 or 1986, the agreement now reached be pursued with them.

It is recommended that the Government appoint a Chairman to the Task Force and a full-time Director, at levels of remuneration to be determined.

It is recommended that the Ministries of Revenue and Municipal Affairs provide all facilities, research, data collection and analysis as may be requested by the Task Force.

It is recommended that Metropolitan Toronto be requested to consider whether the functions of its Advisory Task Force on Assessment Reform might best be assumed by the Metropolitan Toronto Reassessment Task Force.

Consideration has been given to the timing of the creation of a formula for implementing reassessment in Metropolitan Toronto. While sufficient time should be allotted to permit thorough discussion, it is advisable that a timetable be established for staff recommendation and consideration by each of the area municipalities and Metropolitan Toronto Council.

Accordingly, it is recommended that, in the event of a failure to reach a locally-determined decision by Metropolitan

Toronto Council, or each of the area municipalities, as the case may be, by September 1, 1986, the Government determine at that point the merits, substance and formula for a provincially-imposed reassessment.

Consideration has also been given to a matter raised by many deputants from Metropolitan Toronto. It is evident that shifts in taxation will result from a reassessment, and that these may fall on those unable to assume an increased burden of taxation. In that event, it is reasonable that neither undue financial burden nor the loss of a property should be the result of any reassessment.

While the need for and degree of relief for low-income households is a matter which should be recommended by the Task Force and the municipal Councils, it has been proposed that an indication of willingness by the Ontario Government to assist in relief be forthcoming.

Accordingly, it is recommended that, in the event of a municipal proposal for reassessment made prior to September 1, 1986, the Government of Ontario now indicate its willingness, in principle, to assist in the provision of funds, grants, credits or otherwise for the relief of low-income households adversely affected by the reassessment.

In this regard, it is also recommended that the Task Force give consideration to municipally-based relief for low income households adversely affected by a reassessment, having regard, for example, to the relief program adopted by the City of Ottawa on November 21, 1979 upon the introduction of its reassessment program.

Similarly, it is recommended that the Government also now indicate its willingness to support, in principle, a phased approach to the implementation of a reassessment.

Finally, it is recommended that the Task Force consider, as part of its review, the elimination of the 1921 graded exemption program applicable in the City of Toronto (1921) and the former Town of New Toronto (1928).

8. Summary of Recommendations

1. It is recommended that administrative practice at the Assessment Review Board include the scheduling of evening meetings in order to better serve individual appellants.
[Section 3(a)(i)]

2. It is recommended that all decisions of the Assessment Review Board be routinely accompanied by written reasons for the decision rendered, whether requested or not; and, that while nothing should prevent verbal decisions, such decisions not have final effect until such time as written notice and reasons are provided.
[Section 3(a)(ii)]

3. It is recommended that no change be made to the current fee schedules of the Assessment Review Board or the Ontario Municipal Board.
[Section 3(a)(iii)]

4. It is recommended that the requirement for the annual reinstatement of a properly-filed appeal by an appellant be eliminated.
[Section 3(b)]

5. It is recommended that the Notice of Assessment be returned to its former status as an annual statement to all property owners and tenants in Ontario.
[Section 3(c)]

6. It is recommended that the lodging of an appeal act as a stay on the disputed amount of the newly-determined assessment until such time as the matter is finally resolved by the Assessment Review Board or the Ontario Municipal Board. Payment would continue on the non-disputed amount; that is, the level of assessment existing prior to the increase.
[Section 3(d)]

7. It is recommended, in line with Federal practice related to income tax disputes that, in the event a taxpayer is unsuccessful in an appeal from the Assessment Review Board or the Ontario Municipal Board to a court, the taxpayer then be required to pay the disputed increase in taxes or post security, even though the taxpayer intends to appeal that first court decision to a higher court.
[Section 3(d)]

8. It is recommended that, as a deterrent to the deliberate deferral of the payment of taxes, any increase in assessment and taxes as finally determined be subject to the mill rate and be made to apply and have effect retroactively to the date of the appeal.
[Section 3(d)]

9(a) It is recommended that, in the event of an unsuccessful attempt by a taxpayer to reduce his or her assessment, the municipality be entitled to charge interest on the amount of taxes owing, retroactive to the date of the appeal.

Similarly, interest would also be charged on amounts owing if the appeal was successful in reducing the assessment, but unsuccessful in reducing it to its original assessed value which existed prior to the making of the appeal.

(b) It is recommended that the interest rate to be charged be the subject of municipal determination, but that it may not be more nor less than the municipality elects to charge on the payment of overdue taxes. No minimum or maximum rates are proposed for these two interest rates.

(c) It is recommended that, in the event of a successful appeal by a government or school board which has the effect of raising the assessed value, no retroactivity or interest rate provisions should apply.
[Section 3(d)]

10. It is recommended that improvement be undertaken in the promotion of familiarity with local conditions for assessors temporarily relocated to undertake time-specific assessment work.
[Section 3(e)]

11(a) It is recommended that the Assessment Program Policy Manual - which is proposed for wider distribution in Section 5(a) - be amended to outline the process for on-site inspection in determining assessment.

(b) Further, it is recommended that failure to comply with the process outlined above result in disciplinary action being taken, and that this banning of "windshield assessments" be indicated by Ministerial statement and by an amendment to the Assessment Program Policy Manual.
[Section 3(e)]

12. It is recommended that the Assessment Program Policy Manual be amended by the introduction of a statement prohibiting the discouragement by assessors of assessment appeals by individuals.
[Section 3(e)]

13. It is recommended that Section 39 of the Assessment Act be amended to require prior consent in the appeal of another person's assessment, save for any appeal undertaken by a government or school board.
[Section 3(f)]

14. It is recommended that no agent of any owner be permitted standing at the Assessment Review Board or the Ontario Municipal Board unless the prior written consent of the owner of the affected property has first been obtained.
[Section 3(f)]

15(a) It is recommended, notwithstanding the Condominium Act, that no agent or condominium corporation be given standing at the Assessment Review Board or the Ontario Municipal Board in the matter of an appeal of any or all of the units in a condominium building, unless the prior written consent of the affected individual unit owner has first been obtained.

(b) An exception to this rule should apply to the units owned by the condominium corporation itself, in which case its own prior consent is not necessary.
[Section 3(f)]

16. It is recommended that, where tenants are affected, owners be required to notify tenants of the facts, in the event that a decision to appeal an assessment of the subject property is instigated by the owner. Further, this requirement should be legislated, and the proof of its having been carried out should act as a pre-condition to the commencement of any hearing before the Assessment Review Board or the Ontario Municipal Board.
[Section 3(f)]

17. It is recommended that the 14-day period for the payment of taxes be extended to 21 days, prior to which charges for late payment may not be imposed.
[Section 3(g)]

18(a) It is recommended that an amendment to Section 63(1) of the Assessment Act be introduced in order to continue the freeze of the assessment roll to be returned in 1985.

(b) It is recommended that the duration of the freeze continue to be for a period of one year only. The process of consideration and public accountability that follows the introduction of an annual bill should continue to act as an incentive to the ultimate formulation of a program for market value reform.
[Section 4(a)]

19. It is recommended that the Assessment Act be amended to restore the freezing of all condominium/co-operative units, in order to provide this class with the same stability afforded other classes of property.
[Section 4(b)]

20. It is recommended that no amendment be undertaken to Section 65(2) of the Assessment Act which would have the effect of providing for the comparison of the proportion of the market value of condominiums/co-operatives with single-family houses only.
[Section 4(b)]

21(a) It is recommended that Section 3.22 of the Assessment Act be amended to permit the application of the Disabled and Seniors in the Community Program to extend to include improvements to group homes (residential care facilities) housing up to 10 persons, exclusive of staff.

(b) Given the relatively low take-up of the Disabled and Seniors in the Community Program, and its minor effect on municipal revenues, it is recommended that the advertising program undertaken in May 1984 be undertaken again in order to extend the understanding and application of the Program across Ontario.
[Section 4(c)]

22. It is recommended that a new procedure for assessment relief in relation to environmental hazards be put in place, as follows:

(a) A wide list of potential hazards should be developed, and a policy for a reduction in assessment determined for each.

(b) Upon the discovery of a hazard, the policy should be announced, and administered directly by assessors in order to provide immediate relief to affected owners.

At the same time, the policy should be communicated by the Minister of Revenue to the Assessment Review Board and the Ontario Municipal Board for their consideration in the event of assessment appeals, and to the Clerk of any affected municipality.

(c) At the time of the discovery, it should be the responsibility of the Minister of Revenue to undertake to determine the party/government(s) responsible for the presence of the hazard, and to bring forward a recommendation intended to gain relief from such party or government(s).

In this manner, accountability to aggrieved persons, and to municipalities free from responsibility in the matter, may be pursued.

[Section 4(d)]

23(a) It is recommended that the Assessment Act be amended to provide an exemption to non-profit child care centres which occupy educational or any other property already having an exempt status under the Act.

(b) It is recommended that the Ministry of Revenue, in consultation with the Ministries of Education and Community and Social Services, now proceed to review the tax treatment of all non-profit, community-based organizations, having particular regard to the exemption of organizations occupying property already exempt from assessment and taxation.
[Section 4(e)]

24. It is recommended that consideration of the devolution of the assessment function from the province to its municipalities be deferred until such time as all municipalities in Ontario are operating under some form of a market value assessment program.
[Section 4(f)]

25. It is recommended that the Government indicate its support, in principle, for the provision of a higher degree of municipal responsibility in the setting of variable mill rates, such increased responsibility to apply only to those municipalities having a reassessment program in place; and that an in-depth study of this provision be undertaken in 1986.
[Section 4(f)]

26(a) It is recommended that the Assessment Program Policy Manual and its updates be distributed to all public libraries, and to all municipalities, at cost.

(b) It is recommended that public access to the Manual in the Regional Offices, which is generally unknown to the public, be advertised.
[Section 5(a)]

27. It is recommended that the Ministry of Revenue undertake the public release of all market value impact studies undertaken by it, and that such release take place immediately upon completion of such studies.
[Section 5(a)]

28. It is recommended that a review be undertaken of the scope of pamphlet and brochure information on assessment and property tax matters, with a view to the production of literature for every program and service available to the public.
[Section 5(a)]

29. It is recommended that the Ministry of Revenue adopt as an administrative personnel policy the requirement that bilingual or French-language assistance be available in each of the 31 Regional Offices which service communities in which the need for French language service is warranted.
[Section 5(b)]

30. It is recommended that all Notices of Assessment be produced in both of Canada's official languages.
[Section 5(b)]

31(a) It is recommended that a multi-language insert be produced for distribution with the Notice of Assessment in Metropolitan Toronto. The insert should indicate, in the variety of most frequently used languages, that information in the language of choice is available at a given phone number.

(b) It is recommended that a second multi-language insert be produced for distribution with the Notice of Assessment in Metropolitan Toronto. This insert should advise of the "open houses" available to explain assessments, and draw attention to the procedure for appeal and the important appeal dates.

(c) It is recommended that the success of this expansion of services be reviewed within one year, and that a determination be made as to the merits of its implementation beyond Metropolitan Toronto.
[Section 5(b)]

32. It is recommended that the Attorney-General undertake to review and provide for interpretation services, as appropriate, in proceedings before the Assessment Review Board.
[Section 5(b)]

33. It is recommended that the Notice of Assessment be the subject of a thorough redesign in order to simplify its meaning and to clarify its significance to property taxpayers. [Section 5(d)]

34(a) It is recommended that, following the making of an appeal, an appellant, having requested such information in writing, should be entitled to receive from the Regional Assessment Commissioner the following data on each comparable property to be employed by the Commissioner:

municipal address;
gross floor area;
total land area and dimensions, by lot; and
number of rooms.

(b) It is recommended that such request in writing must be made within 10 days of the filing of an appeal with the Assessment Review Board, and that such information must be provided to the appellant no later than 5 working days prior to the hearing date.

(c) It is recommended that the Assessment Review Board adopt as procedural policy a refusal to commence a hearing on the evidence unless it is satisfied that a written request for such information to the Regional Assessment Commissioner has been properly satisfied.

(d) It is recommended that the process outlined herein be contained in brochure material to be distributed with the annual Notice of Assessment.
[Section 5(e)]

35. It is recommended that legislation be enacted to require all Regional Assessment Commissioners to submit public annual reports to each of the municipalities under their jurisdiction upon the annual return of the assessment roll.
[Section 5(f)]

36. It is recommended that the Assessment Act be amended to provide that improvements to any existing residential property be exempt from valuation for assessment provided that such improvements are decorative, cosmetic, related to the replacement of existing heating, plumbing or electrical services, or related to the decorative restoration of lands or buildings designated under the Ontario Heritage Act.
[Section 6(a)]

37. It is recommended that, in the event that a prospective purchaser of a new home requests a builder not to complete certain improvements to the home, in the knowledge that their later completion by the purchaser would free them from increased taxation, the Regional Assessment Commissioner be given the discretion to forbid any resulting exemptions for improvement on the basis of the intentions of the purchaser or seller.
[Section 6(a)]

38. It is recommended that relief for property improvement should continue to be provided regardless of the extent of the improvement, provided that, in the opinion of the Regional Assessment Commissioner, an entire new home is not being constructed. In that event, no relief should be provided.
[Section 6(a)]

39. It is recommended that such relief apply to all classes of residential property regardless of their status as owner-occupied. This would include relief to the absentee owners of rental property, in recognition of the need to promote a good standard of maintenance of the rental housing stock.
[Section 6(a)]

40. It is recommended that a list of exempted improvements, based on Recommendation 36, be included in the Assessment Program Policy Manual.
[Section 6(a)]

41(a) It is recommended that Section 63(2) of the Assessment Act be amended to remove the province-wide figure $5,000, and to permit its replacement by a municipally-determined limit of market value improvements, below which no such improvement shall be assessed. The $5,000 figure should, however, remain in effect until a municipal limit is established.

(b) It is recommended that, in the case of area municipalities within regions and counties, the effect of this exemption not be included in the calculation of municipal contributions to the region or county.

(c) It is recommended that, in the case of a region or county which has adopted a full market value assessment program, there should be no variation in the exemption limit amongst the municipalities within the region or county.

(d) It is recommended that no exemption limit be less than $5,000, unless specifically authorized by the Executive Council of Ontario.

(e) It is recommended that this exemption continue to apply to all classes of property, and that municipalities be empowered to set different annual exemption limits for different classes of property. No variation in limits should be permitted within any property class.

(f) It is recommended that, in the event that the market value of improvements exceeds the exemption limit as determined by the municipality, only the value of improvements in excess of the exemption limit, and not the total value of improvements undertaken, be the subject of increased assessment.

(g) It is recommended that, in the event that improvements are made in two or more successive years which fall below the exemption limit in each individual year, but exceed the limit in their total, the amount of added market val e should be cumulative for calculation purposes, and the amount in excess of the exemption limit should be subject to an increase in assessment whenever it is reached.

(h) It is recommended that the exemption limit carry with the owner of the property, and that successive owners be entitled to a new exemption upon their ownership.

(i) It is recommended that the exemption apply to a major rebuilding, provided that the Regional Assessment Commissioner is satisfied that an entire new building is not being constructed. In that event, the exemptions for improvements should not apply.
[Section 6(b)]

42. It is recommended that the special tax relief for home improvement contained in Chapter 130, Section 1 of the City of Toronto Act, be repealed.
[Section 6(b)]

43. It is recommended that Section 63(2) of the Assessment Act be amended to permit the cumulative calculation of improvements to a property, regardless of the timing of their discovery by the Regional Assessment Commissioner.
[Section 6(c)]

44. It is recommended that the leave to appeal sought by the Ministry of Revenue in relation to the Ontario Municipal Board decision of June 26, 1985 re: 48 Russell Street, Toronto, not be proceeded with.
[Section 6(c)]

45. It is recommended that the Assessment Act be amended to require that unless in the event of the introduction or update of a reassessment program, a reassessment undertaken pursuant to Section 63(2) intended to assess improvements to a property shall result in the assessed value being related to the value of the improvements only, and then added to the existing assessed value of the property. This provision should apply to all classes of property, and in areas with or without reassessment programs.
[Section 6(c)]

46. It is recommended that, as a consequence of Recommendation 44, a roll-back of increased assessments should not be pursued.
[Section 6(c)]

47(a) It is recommended that the Government adopt a policy of the active promotion of Section 63 reassessment in those municipalities without benefit of a reassessment program, except for those municipalities who select a full market value (Section 70) option.

(b) It is recommended that the Government set as a goal the establishment of Section 63 reassessments (unless otherwise replaced by Section 70 reassessments) in all of Ontario's municipalities, regions and counties by the end of 1988.

(c) It is recommended that, in the event that such goal is not met, the Government undertake to make mandatory the establishment of a Section 63 reassessment program in all municipalities, regions and counties.

(d) It is recommended that, following the completion of this program, all assessment programs in Ontario be based on a common base year for general reassessment purposes.
[Section 7(b)]

48. It is recommended that Section 70 (full market value) reassessments continue as a locally-based option for municipalities, regions and counties, and that, where requested, provincial support and assistance be provided in their implementation.
[Section 7(b)]

49. It is recommended, upon completion of the establishment of Section 63 reassessments in all of Ontario's municipalities, as proposed herein, that the Government proceed to promote or require, as appropriate, the implementation of full market value based reassessments for all land in Ontario.
[Section 7(b)]

50(a) It is recommended that the Assessment Act be amended to require that, where a reassessment program is in place, such program shall be subject to a mandatory general reassessment at periods no longer than once every four years.

(b) It is recommended that the current requirement for municipal resolution requesting such general reassessment be eliminated.
[Section 7(c)]

51(a) It is recommended that legislation to permit region and county reassessment under Section 63(3) of the Assessment Act generally not be introduced, but that the specific formula for adoption be the subject of region and county determination and individual legislation.

(b) It is recommended that, in the course of the promotion by the Government of Section 63 reassessment programs, specific efforts be made to encourage and facilitate the adoption of regional and county formulae for regional and county reassessments.
[Section 7(d)]

52(a) It is recommended, in view of the agreement now reached with the Mayors and Chairman of Metropolitan Toronto to proceed towards the implementation of a reassessment within Metropolitan Toronto, that a Metropolitan Toronto Reassessment Task Force be struck, to be comprised of two representatives to be selected by each of the seven municipalities, the Metropolitan Toronto School Board and the Metropolitan Separate School Board, and representatives of the Ministries of Revenue and Municipal Affairs.

(b) It is recommended that, in the event that new Mayors or a new Chairman assume office in 1985 or 1986, the agreement now reached be pursued with them.

(c) It is recommended that the Government appoint a Chairman to the Task Force and a full-time Director, at levels of remuneration to be determined.

(d) It is recommended that the Ministries of Revenue and Municipal Affairs provide all facilities, research, data collection and analysis as may be requested by the Task Force.

(e) It is recommended that Metropolitan Toronto be requested to consider whether the functions of its Advisory Task Force on Assessment Reform might best be assumed by the Metropolitan Toronto Reassessment Task Force.

(f) It is recommended that, in the event of a failure to reach a locally-determined decision by Metropolitan Toronto Council, or each of the area municipalities, as the case may be, by September 1, 1986, the Government determine at that point the merits, substance and formula for a provincially-imposed reassessment.

(g) It is recommended that, in the event of a municipal proposal for reassessment made prior to September 1, 1986, the Government of Ontario now indicate its willingness, in principle, to assist in the provision of funds, grants, credits or otherwise for the relief of low-income households adversely affected by the reassessment.

(h) It is recommended that the Task Force give consideration to municipally-based relief for low income households adversely affected by a reassessment, having regard, for example, to the relief program adopted by the City of Ottawa on November 21, 1979 upon the introduction of its reassessment program.

(i) It is recommended that the Government also now indicate its willingness to support, in principle, a phased approach to the implementation of a reassessment.

(j) It is recommended that the Task Force consider, as part of its review, the elimination of the 1921 graded exemption

program applicable in the City of Toronto (1921) and the former Town of New Toronto (1923).
[Section 7(e)]

53. It is recommended that affirmative action efforts be undertaken to increase the representation of women as members of the Assessment Review Board, in view of their current representation of 4.6%.
[Section 3(b)]

9. Consultations

During the course of the preparation of this report, a number of personal consultations were undertaken with the practitioners and clients of the property tax/assessment system, and other interested parties, as follows:

		Date
1.	Alderman R. Kanter, City of Toronto	August 28, 1985
2.	Mr. Claudio Polsinelli, M.P.P.	August 30, 1985
3.	Mr. S. Makuch, former Associate Dean, U. of T. Law School; Borden, Elliott; solicitors	September 3, and 19, 1985
4.	Mr. D. Aitken, former assessor, Ministry of Revenue	September 4, 1985
5.	Mr. B. Chernos, Q.C., Chernos, Conway, and Hutchison; solicitors	September 4, 1985
6.	Mr. E. Cunningham, former M.P.P.; President, Ontario Editorial Bureau	September 4, 1985
7.	Alderman M. Walker, City of Toronto	September 4, 1985
8.	Alderman J. Rowlands, Budget Chief, City of Toronto	September 5, 1985
9.	Mr. R. Poole; Walker, Milligan, Poole; solicitors	September 5 and 13, 1985

		Date
10.	Mr. M. Dunbar, Executive Director, Association of Municipalities of Ontario	September 5, 1985
11.	Ms. B. Allen, Director of Policy and Legislative Services, Association of Municipalities of Ontario	September 5, 1985
12.	Alderman J. Mackie, City of Scarborough	September 6, 1985
13.	Alderman B. Ashton, City of Scarborough	September 6, 1985
14.	Mr. R. Birch, Ontario Association for Property Tax Reform	September 10, 1985
15.	Mr. E. Thalmann, Ontario Association for Property Tax Reform	September 10, 1985
16.	Mr. T. Patterson, Ontario Association for Property Tax Reform	September 10, 1985
17.	Mr. T. Prue, Niagara Falls	September 10, 1985
18.	Mr. J. Joy, Niagara Falls	September 10, 1985
19.	Alderman A. Johnston, City of Toronto	September 10, 1985
20.	Prof. J. Bossons, Institute for Policy Analysis, University of Toronto	September 11, 1985

		Date
21.	Mayor A. Eggleton, City of Toronto	September 12, 1985
22.	Hon. B. Grandmaitre, Minister of Municipal Affairs	September 12, 1985
23.	Mr. S. Davis-Mendelow, Executive Assistant, Minister of Municipal Affairs	September 12, 1985
24.	Mr. P. Thomlinson, Director, Planning and Development Department, City of Toronto	September 12, 1985
25.	Ms. C. Beckmann, Executive Assistant, Minister of Education	September 12, 1985
26.	Mr. R. Wright; Lang, Michener, Cranston, Farquharson, Wright; solicitors	September 13, 1985
27.	Mr. W. J. Daly, Property Assessment Manager, Cadillac-Fairview Corp.	September 16, 1985
28.	Mr. D. M. McMenemy, Senior Vice-President, Cadillac-Fairview Corp.	September 16, 1985
29.	Mayor A. Tonks, City of York	September 16, 1985
30.	Mayor B. Sinclair, City of Etobicoke	September 17, 1985
31.	Mr. D. Reville, M.P.P.	September 18, 1985

		Date
32.	Mr. G. Cassidy, Director of Research, Ontario New Democratic Party	September 18, 1985
33.	Mr. C. J. Minett, President, Canadian Property Tax Agents Association	September 19, 1985
34.	Mr. J. Cresswell, Chairman, Canadian Property Tax Agents Association, Toronto Chapter	September 19, 1985
35.	Mr. H. Walker, former Deputy Minister, Ontario Ministry of Revenue; representative, Etobicoke Condominium Association	September 19, 1985
36.	Mayor M. Dewar, City of Ottawa	October 1, 1985
37.	Mr. F. Askwith, Q.C., City Solicitor, City of Ottawa	October 1, 1985
38.	Mr. C. Young, Commissioner of Finance and City Treasurer, City of Ottawa	October 1, 1985
39.	Mr. C. Simpson, Director of Finance, City of Ottawa	October 1, 1985
40.	Mr. J.G. Sinclair, General Counsel, Public Law, Federal Department of Justice	October 1, 1985

		Date
41.	Mr. F. Marchington, former Mayor, West Carleton	October 2, 1985
42.	Mr. I. Baird, former alderman, West Carleton	October 2, 1985
43.	Mr. J. Shaw, former reeve, Fitzroy	October 2, 1985
44.	Mr. D. Webb, President, Institute of Municipal Assessors of Ontario	October 2, 1985
45.	Mr. J. Poots, Senior Commissioner, City of Scarborough	October 2, 1985
46.	Mr. D. Creech, Treasurer and Commissioner of Finance and Management Services, City of Scarborough	October 2, 1985
47.	Mayor R. Morrow, City of Hamilton	October 3, 1985
48.	Mr. E.C. Matthews, Treasurer, City of Hamilton	October 3, 1985
49.	Mr. D.A. Carson, Executive Assistant to the Mayor, City of Hamilton	October 3, 1985
50.	Mayor A. Gleeson, City of London	October 4, 1985
51.	Mr. M.C. Engels, City Administrator, City of London	October 4, 1985
52.	Chairman T. Davies, Regional Muncipality of Sudbury	October 7, 1985

		Date
53.	Mr. G. Skirda, Treasurer, Regional Muncipality of Sudbury	October 7, 1985
54.	Mr. H.R. Akehurst, Chief Administrative Officer, Regional Muncipality of Sudbury	October 7, 1985
55.	Mayor M. Lastman, City of North York	October 7, 1985
56.	Chairman D. Flynn, Municipality of Metropolitan Toronto	October 7, 1985
57.	Mayor M. Saddy, City of Sarnia	October 8, 1985
58.	Mr. M.H. Branson, Valuation and Appraisal Consultant; Real Estate Chairman, Arbitrators Institute of Canada	October 8, 1985
59.	Mr. R. Brooks, Commissioner of Finance, City of Sarnia	October 8, 1985
60.	Mr. J. Robertson, City Manager, City of Sarnia	October 8, 1985
61.	Association of Municipalities of Ontario, various representatives	October 17, 1985
62.	Ms A. Foster, Property Manager, City of Brampton	October 18, 1985